

Introduced by Committee on Budget and Fiscal Review

January 10, 2011

~~An act relating to the Budget Act of 2011. An act to add Section 71622.5 to the Government Code, to amend Sections 11356, 11381, and 115215 of the Health and Safety Code, to amend Sections 17.5, 186.22, 186.26, 186.33, 245, 273.4, 290.018, 298.2, 299.5, 422, 455, 598c, 598d, 600, 666, 667.5, 800, 1170, 1170.1, 1203.018, 1230, 1230.1, 2057, 2932, 3000, 3000.09, 3000.1, 3001, 3003, 3015, 3056, 3057, 3451, 3453, 3454, 3455, 3456, 4011.10, 4016.5, 4019, 11418, 12021.5, 12022, 12022.5, 12022.9, and 12025 of, to amend and repeal Section 830.5 of, to amend, repeal, and add Section 3000.08 of, to add Section 3073.1 to, and to add and repeal Sections 3060 and 4115.55 of, the Penal Code, to amend Sections 23109 and 23110 of the Vehicle Code, to amend Section 1766.01 of, and to repeal Section 1710.5 of, the Welfare and Institutions Code, and to amend Section 636 of Chapter 15 of the Statutes of 2011, relating to criminal justice realignment, making an appropriation therefor, to take effect immediately, bill related to the budget.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 95, as amended, Committee on Budget and Fiscal Review. ~~Budget Act of 2011. Criminal justice realignment.~~

Existing law provides that certain specified felonies are punishable by incarceration in state prison. If Chapter 15 of the Statutes of 2011 becomes operative, certain of those felonies shall instead be punishable by incarceration in a county jail.

This bill would provide that, if Chapter 15 of the Statutes of 2011 becomes operative, certain specified felonies would continue to be punishable by incarceration in state prison. The bill would make other technical changes.

Existing law provides that petty theft is a misdemeanor, except that every person who, having been convicted 3 or more times of petty theft, grand theft, auto theft, burglary, carjacking, robbery, or receiving stolen property and having served time in a penal institution therefor, is subsequently convicted of petty theft, is punishable by imprisonment in a county jail not exceeding one year, or in the state prison. Existing law also provides that persons required to register as sex offenders, or with a prior serious or violent felony conviction who have been convicted and imprisoned for the commission of specified crimes, including, among others, petty theft, auto theft, burglary, carjacking, or robbery, are subject to imprisonment in the state prison with one prior qualifying offense, rather than 3. If Chapter 15 of the Statutes of 2011 becomes operative, those provisions subjecting persons to imprisonment in the state prison with one prior qualifying offense would be deleted.

This bill would, if Chapter 15 of the Statutes of 2011 becomes operative, restore those provisions subjecting persons to imprisonment in the state prison with one prior qualifying offense and thereby maintain existing law.

Existing law provides that, except as specified, when any person is convicted of 2 or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under specified provisions, the aggregate term of imprisonment for all these convictions shall be the sum of the principal term, the subordinate term, and any additional term imposed for applicable enhancements, as specified.

This bill would require that whenever a court imposes a term of imprisonment in the state prison, whether the term is a principal or subordinate term, the aggregate term shall be served in the state prison regardless as to whether or not one of the terms requires imprisonment in a county jail pursuant to specified provisions.

Existing law provides for the dismissal of criminal actions by the judge or magistrate on his or her own motion or upon the application of the prosecuting attorney, as specified. Existing law, if Chapter 15 of

the Statutes of 2011 becomes operative, provides that certain felonies shall be punishable by incarceration in a county jail.

This bill would provide that any allegation that a defendant is eligible for state prison due to a prior or current conviction, sentence enhancement, or is required to register as a sex offender shall not be subject to dismissal pursuant to the above-referenced provision.

Existing law, amended by Proposition 83, as approved by the voters at the November 7, 2006, statewide general election, provides for the enhancement of prison terms for new offenses because of prior prison terms. Existing law provides that, except as specified, where the new offense is any felony for which a prison sentence or a sentence of imprisonment in a county jail for more than one year is imposed, in addition and consecutive to any other prison terms therefor, the court shall impose a one-year term for each prior separate prison term or county jail term of more than one year served for any felony. The Legislature may amend the provisions of Proposition 83 by majority vote if the amendments expand the scope of the proposition's application.

This bill would expand the scope of the application of Proposition 83 and provide that where the new offense is any felony for which a prison sentence or a sentence of imprisonment in a county jail for more than one year is imposed or is not suspended, in addition and consecutive to any other prison terms therefor, the court shall impose a one-year term for each prior separate prison term or county jail term of more than one year imposed or when sentence is not suspended for any felony.

Existing law, if Chapter 15 of the Statutes of 2011 becomes operative, provides that prisoners on parole shall remain under the legal custody of the Department of Corrections and Rehabilitation but shall not be returned to prison, except as specified.

This bill would instead provide that prisoners on parole shall remain under the supervision of the department. The bill would provide that, except as specified, upon revocation of parole, a parolee may be housed in a county jail for a maximum of 180 days. The bill would provide that when housed in county facilities, parolees shall be under the legal custody and jurisdiction of local county facilities and when released from custody, parolees will be returned to the parole supervision of the department for the duration of parole. By imposing additional duties on local agencies, this bill would impose a state-mandated local program. Additionally, the bill would authorize the superior court of

any county to appoint as many hearing officers as deemed necessary to conduct parole revocation hearings and to determine violations of conditions of postrelease supervision, as specified.

Existing law, if Chapter 15 of the Statutes of 2011 becomes operative, provides that persons released from state prison on or after July 1, 2011, after serving a prison term for a serious or violent felony or specified sex crimes shall be subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county into which the parolee is released. Existing law, if Chapter 15 of the Statutes of 2011 becomes operative, provides specified parole procedures for parolees who are paroled from state prison prior to July 1, 2011.

This bill would provide, until July 1, 2013, that those persons who serve a prison term or whose sentence has been deemed served, as specified, for any of the above-referenced crimes, as well as any crime for which the person is required as a condition of parole to undergo treatment by the State Department of Mental Health, shall be subject to parole supervision and jurisdiction of the department. The bill would provide, as of July 1, 2013, the court in the county in which the parolee resides or commits a violation of the terms and conditions of parole shall have the limited jurisdiction to hear petitions to revoke parole and impose a term of custody. The bill would provide that parolees subject to these provisions who are being held for a parole violation in a county jail on October 1, 2011, may, upon revocation, be remanded to the state prison. The bill would make other related changes.

Existing law establishes the Parole Reentry Accountability Program for the purpose of promoting public safety, holding parolees accountable, and reducing recidivism. Existing law, pursuant to this program and subject to funding being made available, requires the Secretary of the Department of Corrections and Rehabilitation to enter into a memorandum of understanding with the Administrative Office of the Courts for the establishment and operation of parolee reentry programs. Existing law provides that parolees subject to this program with a history of substance abuse or mental illness who violate their conditions of parole may be referred by the department to a parolee reentry program.

This bill would make offenders subject to postrelease supervision as established by the Postrelease Community Supervision Act of 2011 eligible to participate in reentry court programs, as specified. The bill would authorize counties to contract with the Department of Corrections

and Rehabilitation in order to obtain day treatment and crisis care services for inmates with mental health problems who are released on postrelease community supervision.

Existing law, if Chapter 15 of the Statutes of 2011 becomes operative, creates the Postrelease Community Supervision Act of 2011 to provide that any person released from prison, after serving a term in prison for certain felonies shall be subject to community supervision provided by a county agency. The act requires the court to establish a process to determine violations of conditions of postrelease supervision.

This bill would instead provide that if the supervising county agency has determined that intermediate sanctions are not appropriate, the supervising county agency shall petition the revocation hearing officer to revoke and terminate postrelease supervision. Because the bill would impose additional duties on local agencies, it would create a state-mandated local program. The bill would make other related changes.

Existing law, if Chapter 15 of the Statutes of 2011 becomes operative, requires that for prisoners whose crimes are committed on or after July 1, 2011, except those who are limited to 15% credit against sentenced time, and who are confined to a county jail, city jail, industrial farm, or road camp, a term of 4 days be deemed to have been served for every 2 days spent in actual custody, as specified.

This bill would make these provisions applicable to prisoners whose crimes are committed on or after October 1, 2011, and would additionally make these provisions applicable to prisoners confined in a county jail, industrial farm, or road camp, or a city jail, industrial farm, or road camp as part of custodial sanction imposed following a violation of postrelease community supervision or parole.

Existing law provides that Chapter 15 of the Statutes of 2011 is to become operative no later than July 1, 2011, and only upon the creation of a community corrections grant program.

This bill would make that act operative no later than September 1, 2011, and upon the creation of that grant program.

Existing law, notwithstanding any other provision of law, authorizes a county sheriff, police chief, or other public agency that contracts for emergency health services to contract with providers of emergency health care services for care to local law enforcement patients. Existing law provides that hospitals that do not contract with these entities shall provide emergency health care services to local law enforcement

patients at a rate equal to 110% of the hospital's actual costs, as provided. Existing law repeals these provisions as of January 1, 2014.

This bill would recast these provisions to apply to health care services generally, instead of emergency health care services. The bill would delete the provision making the bill inoperative as of January 1, 2014.

Existing law authorizes counties to contract with the Department of Corrections and Rehabilitation for the commitment to the department of persons who have suffered a felony conviction.

This bill would provide that offenders sentenced to a county jail that serve their sentence in state prison pursuant to these provisions are required to comply with the rules and regulations of the department, as provided.

The bill would, until January 1, 2015, permit a county board of supervisors to enter into a contract with other public agencies to provide housing for inmates, as specified.

The bill would incorporate additional changes to Section 830.5 of the Penal Code, proposed by AB 116, to be operative as specified.

The bill would appropriate \$27,000,000 from the General Fund to the Department of Corrections and Rehabilitation for the purpose of state operations.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The bill would declare that it is to take effect immediately as a bill providing appropriations related to the budget bill.

~~This bill would express the intent of the Legislature to enact statutory changes relating to the Budget Act of 2011.~~

Vote: majority. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 71622.5 is added to the Government Code,
2 to read:

1 71622.5. (a) *The Legislature hereby declares that due to the*
2 *need to implement the 2011 Realignment Legislation addressing*
3 *public safety (Chapter 15 of the Statutes of 2011), it is the intent*
4 *of the Legislature to afford the courts the maximum flexibility to*
5 *manage the caseload in the manner that is most appropriate to*
6 *each court.*

7 (b) *Notwithstanding Section 71622, the superior court of any*
8 *county may appoint as many hearing officers as deemed necessary*
9 *to conduct parole revocation hearings pursuant to Sections 3000.08*
10 *and 3000.09 of the Penal Code and to determine violations of*
11 *conditions of postrelease supervision pursuant to Section 3455 of*
12 *the Penal Code, and to perform related duties as authorized by*
13 *the court. A hearing officer appointed pursuant to this section has*
14 *the authority to conduct these hearings and to make determinations*
15 *at those hearings pursuant to applicable law.*

16 (c) (1) *A person is eligible to be appointed a hearing officer*
17 *pursuant to this section if the person meets one of the following*
18 *criteria:*

19 (A) *He or she has been an active member of the State Bar of*
20 *California for at least 10 years continuously prior to appointment.*

21 (B) *He or she is or was a judge of a court of record of California*
22 *within the last five years, or is currently eligible for the assigned*
23 *judge program.*

24 (C) *He or she is or was a commissioner, magistrate, referee,*
25 *or hearing officer authorized to perform the duties of a subordinate*
26 *judicial officer of a court of record of California within the last*
27 *five years.*

28 (2) *The superior court may prescribe additional minimum*
29 *qualifications for hearing officers appointed pursuant to this*
30 *section and may prescribe mandatory training for those hearing*
31 *officers in addition to any training and education that may be*
32 *required as judges or employees of the superior court.*

33 (d) *The manner of appointment of a hearing officer pursuant*
34 *to this section and compensation to be paid to a hearing officer*
35 *shall be determined by the court. That compensation is within the*
36 *definition of “court operations” pursuant to Section 77003 and*
37 *California Rules of Court, rule 10.810.*

38 (e) *The superior courts of two or more counties may appoint*
39 *the same person as a hearing officer under this section.*

1 *SEC. 2. Section 11356 of the Health and Safety Code, as*
2 *amended by Section 158 of Chapter 15 of the Statutes of 2011, is*
3 *amended to read:*

4 11356. As used in this article “felony offense,” and “offense
5 punishable as a felony” refer to an offense prior to ~~July~~ *October*
6 1, 2011, for which the law prescribes imprisonment in the state
7 prison, or for an offense on or after ~~July~~ *October* 1, 2011,
8 imprisonment in either the state prison or pursuant to subdivision
9 (h) of Section 1170 of the Penal Code, as either an alternative or
10 the sole penalty, regardless of the sentence the particular defendant
11 received.

12 *SEC. 3. Section 11381 of the Health and Safety Code, as*
13 *amended by Section 178 of Chapter 15 of the Statutes of 2011, is*
14 *amended to read:*

15 11381. As used in this article “felony offense” and offense
16 “punishable as a felony” refer to an offense prior to ~~July~~ *October*
17 1, 2011, for which the law prescribes imprisonment in the state
18 prison, or for an offense on or after ~~July~~ *October* 1, 2011,
19 imprisonment in either the state prison or pursuant to subdivision
20 (h) of Section 1170 of the Penal Code, as either an alternative or
21 the sole penalty, regardless of the sentence the particular defendant
22 received.

23 *SEC. 4. Section 115215 of the Health and Safety Code, as*
24 *amended by Section 200 of Chapter 15 of the Statutes of 2011, is*
25 *amended to read:*

26 115215. (a) Any person who violates this chapter, or rules,
27 regulations, or orders in effect adopted pursuant to this chapter, is
28 guilty of a misdemeanor and shall, upon conviction, be punished
29 by a fine not to exceed one thousand dollars (\$1,000) or by
30 imprisonment in a county jail for a period not to exceed 180 days,
31 or by both the fine and imprisonment.

32 (b) Any person who knowingly disposes or causes the disposal
33 of any radioactive material regulated by this chapter, or who
34 reasonably should have known that the person was disposing or
35 causing the disposal of the material, at a facility within the state
36 that does not have a license for disposal issued by the department
37 pursuant to this chapter, or at any point in the state that is not
38 authorized according to this chapter, or by any other local, state,
39 or federal agency having authority over radioactive materials, and
40 is in violation of this chapter, or any regulation or order adopted

pursuant to this chapter, is guilty of a public offense, and upon conviction, may be punished as follows:

(1) If the disposal is found to have caused a substantial danger to the public health or safety, the person may be punished by imprisonment in a county jail for not more than one year or by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 24, or 36 months, except as otherwise provided in paragraph (2). The court may also impose, upon a person convicted of violating this subdivision, a fine of not more than one hundred thousand dollars (\$100,000) for each day of violation, except as otherwise provided in paragraph (2).

(2) If the act that violated this subdivision caused great bodily injury or caused a substantial probability that death could result, the person convicted may be punished by imprisonment pursuant to subdivision (h) of Section 1170 of the Penal Code for three, five, or seven years and may be fined not more than two hundred fifty thousand dollars (\$250,000) for each day of violation.

(c) Any person who knowingly transports or causes the transportation of any radioactive material regulated by this chapter, or who reasonably should have known that the person was causing the transportation of the material, to a facility in the state that does not have a license from the department issued pursuant to this chapter, to any point in the state that is not authorized by this chapter, or to any point in the state that is not authorized by any other local, state, or federal agency having authority over radioactive materials, and is in violation of this chapter, or any regulation or order adopted pursuant to this chapter, is guilty of a public offense and, upon conviction, may be punished as follows:

(1) If the transportation is found to have caused a substantial danger to the public health or safety, the person may be punished by imprisonment in the county jail for not more than one year or by imprisonment ~~in the state prison~~ pursuant to subdivision (h) of Section 1170 of the Penal Code for 16, 24, or 36 months, except as otherwise provided in paragraph (2). The court may also impose, upon a person convicted of violating this subdivision, a fine of not more than one hundred thousand dollars (\$100,000) for each day of violation, except as provided by paragraph (2).

(2) If the transportation that violated this subdivision caused great bodily injury or caused a substantial probability that death could result, the person convicted may be punished by

1 imprisonment in the state prison pursuant to subdivision (h) of
2 Section 1170 of the Penal Code for three, five, or seven years and
3 may be fined not more than two hundred fifty thousand dollars
4 (\$250,000) for each day of violation.

5 (d) Notwithstanding any other provision of this chapter,
6 radioactive materials used in medical treatment or result from
7 medical treatment, that are disposed, stored, handled, or transported
8 in a manner authorized pursuant to this chapter, are exempt from
9 subdivisions (b) and (c).

10 (e) Notwithstanding subdivision (a), any person who violates
11 any provision of this chapter relating to mammography or
12 regulations adopted pursuant to those provisions is guilty of a
13 misdemeanor and shall, upon conviction thereof, be punished by
14 a fine not to exceed five thousand dollars (\$5,000), per day of
15 offense, or by imprisonment in the county jail not to exceed 180
16 days, or both the fine and imprisonment.

17 *SEC. 5. Section 17.5 of the Penal Code, as amended by Section*
18 *229 of Chapter 15 of the Statutes of 2011, is amended to read:*

19 17.5. (a) The Legislature finds and declares all of the
20 following:

21 (1) The Legislature reaffirms its commitment to reducing
22 recidivism among criminal offenders.

23 (2) Despite the dramatic increase in corrections spending over
24 the past two decades, national reincarceration rates for people
25 released from prison remain unchanged or have worsened. National
26 data show that about 40 percent of released individuals are
27 reincarcerated within three years. In California, the recidivism rate
28 for persons who have served time in prison is even greater than
29 the national average.

30 (3) Criminal justice policies that rely on building and operating
31 more prisons to address community safety concerns are not
32 sustainable, and will not result in improved public safety.

33 (4) California must reinvest its criminal justice resources to
34 support community-based corrections programs and evidence-based
35 practices that will achieve improved public safety returns on this
36 state's substantial investment in its criminal justice system.

37 (5) Realigning low-level felony offenders who do not have prior
38 convictions for serious, violent, or sex offenses to locally run
39 community-based corrections programs, which are strengthened
40 through community-based punishment, evidence-based practices,

1 improved supervision strategies, and enhanced secured capacity,
2 will improve public safety outcomes among adult felons and
3 facilitate their reintegration back into society.

4 (6) Community-based corrections programs require a partnership
5 between local public safety entities and the county to provide and
6 expand the use of community-based punishment for low-level
7 offender populations. Each county's Local Community Corrections
8 Partnership, as established in paragraph (2) of subdivision (b) of
9 Section 1230, should play a critical role in developing programs
10 and ensuring appropriate outcomes for low-level offenders.

11 (7) ~~Fiscal concerns~~ *policy and programs correctional practices*
12 should align to promote a justice reinvestment strategy that fits
13 each county. "Justice reinvestment" is a data-driven approach to
14 reduce corrections and related criminal justice spending and
15 reinvest savings in strategies designed to increase public safety.
16 The purpose of justice reinvestment is to manage and allocate
17 criminal justice populations more cost-effectively, generating
18 savings that can be reinvested in evidence-based strategies that
19 increase public safety while holding offenders accountable.

20 (8) "Community-based punishment" means ~~evidence-based~~
21 ~~correctional sanctions and programming—other than jail~~
22 ~~incarceration alone or traditional routine probation supervision.~~
23 *Intermediate sanctions encompassing a range of custodial and*
24 *noncustodial responses to criminal or noncompliant offender*
25 *activity. Community-based punishment* may be provided by local
26 public safety entities directly or through community-based public
27 or private correctional service providers, and include, but are not
28 limited to, the following:

29 (A) Short-term flash incarceration in jail for a period of not
30 more than ~~7~~ 10 days.

31 (B) Intensive community supervision.

32 (C) Home detention with electronic monitoring or GPS
33 monitoring.

34 (D) Mandatory community service.

35 (E) Restorative justice programs such as mandatory victim
36 restitution and victim-offender reconciliation.

37 (F) Work, training, or education in a furlough program pursuant
38 to Section 1208.

39 (G) Work, in lieu of confinement, in a work release program
40 pursuant to Section 4024.2.

1 (H) Day reporting.

2 (I) Mandatory residential or nonresidential substance abuse
3 treatment programs.

4 (J) Mandatory random drug testing.

5 (K) Mother-infant care programs.

6 (L) Community-based residential programs offering structure,
7 supervision, drug treatment, alcohol treatment, literacy
8 programming, employment counseling, psychological counseling,
9 mental health treatment, or any combination of these and other
10 interventions.

11 (9) “Evidence-based practices” refers to supervision policies,
12 procedures, programs, and practices demonstrated by scientific
13 research to reduce recidivism among individuals under probation,
14 parole, or post release supervision.

15 (b) The provisions of this act are not intended to alleviate state
16 prison overcrowding.

17 *SEC. 6. Section 186.22 of the Penal Code, as amended by*
18 *Section 275 of Chapter 15 of the Statutes of 2011, is amended to*
19 *read:*

20 186.22. (a) Any person who actively participates in any
21 criminal street gang with knowledge that its members engage in
22 or have engaged in a pattern of criminal gang activity, and who
23 willfully promotes, furthers, or assists in any felonious criminal
24 conduct by members of that gang, shall be punished by
25 imprisonment in a county jail for a period not to exceed one year,
26 or by imprisonment pursuant to subdivision (h) of Section 1170
27 in the state prison for 16 months, or two or three years.

28 (b) (1) Except as provided in paragraphs (4) and (5), any person
29 who is convicted of a felony committed for the benefit of, at the
30 direction of, or in association with any criminal street gang, with
31 the specific intent to promote, further, or assist in any criminal
32 conduct by gang members, shall, upon conviction of that felony,
33 in addition and consecutive to the punishment prescribed for the
34 felony or attempted felony of which he or she has been convicted,
35 be punished as follows:

36 (A) Except as provided in subparagraphs (B) and (C), the person
37 shall be punished by an additional term pursuant to subdivision
38 (h) of Section 1170 of two, three, or four years at the court’s
39 discretion.

1 (B) If the felony is a serious felony, as defined in subdivision
2 (c) of Section 1192.7, the person shall be punished by an additional
3 term of five years ~~in the state prison~~.

4 (C) If the felony is a violent felony, as defined in subdivision
5 (c) of Section 667.5, the person shall be punished by an additional
6 term of 10 years ~~in the state prison~~.

7 (2) If the underlying felony described in paragraph (1) is
8 committed on the grounds of, or within 1,000 feet of, a public or
9 private elementary, vocational, junior high, or high school, during
10 hours in which the facility is open for classes or school-related
11 programs or when minors are using the facility, that fact shall be
12 a circumstance in aggravation of the crime in imposing a term
13 under paragraph (1).

14 (3) The court shall select the sentence enhancement which, in
15 the court's discretion, best serves the interests of justice and shall
16 state the reasons for its choice on the record at the time of the
17 sentencing in accordance with the provisions of subdivision (d) of
18 Section 1170.1.

19 (4) Any person who is convicted of a felony enumerated in this
20 paragraph committed for the benefit of, at the direction of, or in
21 association with any criminal street gang, with the specific intent
22 to promote, further, or assist in any criminal conduct by gang
23 members, shall, upon conviction of that felony, be sentenced to
24 an indeterminate term of life imprisonment with a minimum term
25 of the indeterminate sentence calculated as the greater of:

26 (A) The term determined by the court pursuant to Section 1170
27 for the underlying conviction, including any enhancement
28 applicable under Chapter 4.5 (commencing with Section 1170) of
29 Title 7 of Part 2, or any period prescribed by Section 3046, if the
30 felony is any of the offenses enumerated in subparagraph (B) or
31 (C) of this paragraph.

32 (B) Imprisonment in the state prison for 15 years, if the felony
33 is a home invasion robbery, in violation of subparagraph (A) of
34 paragraph (1) of subdivision (a) of Section 213; carjacking, as
35 defined in Section 215; a felony violation of Section 246; or a
36 violation of Section 12022.55.

37 (C) Imprisonment in the state prison for seven years, if the
38 felony is extortion, as defined in Section 519; or threats to victims
39 and witnesses, as defined in Section 136.1.

(5) Except as provided in paragraph (4), any person who violates this subdivision in the commission of a felony punishable by imprisonment in the state prison for life shall not be paroled until a minimum of 15 calendar years have been served.

(c) If the court grants probation or suspends the execution of sentence imposed upon the defendant for a violation of subdivision (a), or in cases involving a true finding of the enhancement enumerated in subdivision (b), the court shall require that the defendant serve a minimum of 180 days in a county jail as a condition thereof.

(d) Any person who is convicted of a public offense punishable as a felony or a misdemeanor, which is committed for the benefit of, at the direction of, or in association with any criminal street gang, with the specific intent to promote, further, or assist in any criminal conduct by gang members, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment pursuant to subdivision (h) of Section 1170 in the state prison for one, two, or three years, provided that any person sentenced to imprisonment in the county jail ~~not to exceed one year~~ shall be imprisoned for a period of *not to exceed one year*, but not less than 180 days, and shall not be eligible for release upon completion of sentence, parole, or any other basis, until he or she has served 180 days. If the court grants probation or suspends the execution of sentence imposed upon the defendant, it shall require as a condition thereof that the defendant serve 180 days in a county jail.

(e) As used in this chapter, “pattern of criminal gang activity” means the commission of, attempted commission of, conspiracy to commit, or solicitation of, sustained juvenile petition for, or conviction of two or more of the following offenses, provided at least one of these offenses occurred after the effective date of this chapter and the last of those offenses occurred within three years after a prior offense, and the offenses were committed on separate occasions, or by two or more persons:

(1) Assault with a deadly weapon or by means of force likely to produce great bodily injury, as defined in Section 245.

(2) Robbery, as defined in Chapter 4 (commencing with Section 211) of Title 8 of Part 1.

(3) Unlawful homicide or manslaughter, as defined in Chapter 1 (commencing with Section 187) of Title 8 of Part 1.

1 (4) The sale, possession for sale, transportation, manufacture,
2 offer for sale, or offer to manufacture controlled substances as
3 defined in Sections 11054, 11055, 11056, 11057, and 11058 of
4 the Health and Safety Code.

5 (5) Shooting at an inhabited dwelling or occupied motor vehicle,
6 as defined in Section 246.

7 (6) Discharging or permitting the discharge of a firearm from
8 a motor vehicle, as defined in subdivisions (a) and (b) of Section
9 12034.

10 (7) Arson, as defined in Chapter 1 (commencing with Section
11 450) of Title 13.

12 (8) The intimidation of witnesses and victims, as defined in
13 Section 136.1.

14 (9) Grand theft, as defined in subdivision (a) or (c) of Section
15 487.

16 (10) Grand theft of any firearm, vehicle, trailer, or vessel.

17 (11) Burglary, as defined in Section 459.

18 (12) Rape, as defined in Section 261.

19 (13) Looting, as defined in Section 463.

20 (14) Money laundering, as defined in Section 186.10.

21 (15) Kidnapping, as defined in Section 207.

22 (16) Mayhem, as defined in Section 203.

23 (17) Aggravated mayhem, as defined in Section 205.

24 (18) Torture, as defined in Section 206.

25 (19) Felony extortion, as defined in Sections 518 and 520.

26 (20) Felony vandalism, as defined in paragraph (1) of
27 subdivision (b) of Section 594.

28 (21) Carjacking, as defined in Section 215.

29 (22) The sale, delivery, or transfer of a firearm, as defined in
30 Section 12072.

31 (23) Possession of a pistol, revolver, or other firearm capable
32 of being concealed upon the person in violation of paragraph (1)
33 of subdivision (a) of Section 12101.

34 (24) Threats to commit crimes resulting in death or great bodily
35 injury, as defined in Section 422.

36 (25) Theft and unlawful taking or driving of a vehicle, as defined
37 in Section 10851 of the Vehicle Code.

38 (26) Felony theft of an access card or account information, as
39 defined in Section 484e.

1 (27) Counterfeiting, designing, using, or attempting to use an
2 access card, as defined in Section 484f.

3 (28) Felony fraudulent use of an access card or account
4 information, as defined in Section 484g.

5 (29) Unlawful use of personal identifying information to obtain
6 credit, goods, services, or medical information, as defined in
7 Section 530.5.

8 (30) Wrongfully obtaining Department of Motor Vehicles
9 documentation, as defined in Section 529.7.

10 (31) Prohibited possession of a firearm in violation of Section
11 12021.

12 (32) Carrying a concealed firearm in violation of Section 12025.

13 (33) Carrying a loaded firearm in violation of Section 12031.

14 (f) As used in this chapter, “criminal street gang” means any
15 ongoing organization, association, or group of three or more
16 persons, whether formal or informal, having as one of its primary
17 activities the commission of one or more of the criminal acts
18 enumerated in paragraphs (1) to (25), inclusive, or (31) to (33),
19 inclusive, of subdivision (e), having a common name or common
20 identifying sign or symbol, and whose members individually or
21 collectively engage in or have engaged in a pattern of criminal
22 gang activity.

23 (g) Notwithstanding any other law, the court may strike the
24 additional punishment for the enhancements provided in this
25 section or refuse to impose the minimum jail sentence for
26 misdemeanors in an unusual case where the interests of justice
27 would best be served, if the court specifies on the record and enters
28 into the minutes the circumstances indicating that the interests of
29 justice would best be served by that disposition.

30 (h) Notwithstanding any other provision of law, for each person
31 committed to the Division of Juvenile Facilities for a conviction
32 pursuant to subdivision (a) or (b) of this section, the offense shall
33 be deemed one for which the state shall pay the rate of 100 percent
34 of the per capita institutional cost of the Division of Juvenile
35 Facilities, pursuant to Section 912.5 of the Welfare and Institutions
36 Code.

37 (i) In order to secure a conviction or sustain a juvenile petition,
38 pursuant to subdivision (a) it is not necessary for the prosecution
39 to prove that the person devotes all, or a substantial part, of his or
40 her time or efforts to the criminal street gang, nor is it necessary

1 to prove that the person is a member of the criminal street gang.
2 Active participation in the criminal street gang is all that is
3 required.

4 (j) A pattern of gang activity may be shown by the commission
5 of one or more of the offenses enumerated in paragraphs (26) to
6 (30), inclusive, of subdivision (e), and the commission of one or
7 more of the offenses enumerated in paragraphs (1) to (25),
8 inclusive, or (31) to (33), inclusive, of subdivision (e). A pattern
9 of gang activity cannot be established solely by proof of
10 commission of offenses enumerated in paragraphs (26) to (30),
11 inclusive, of subdivision (e), alone.

12 (k) This section shall remain in effect only until January 1, 2012,
13 and as of that date is repealed, unless a later enacted statute, that
14 is enacted before January 1, 2012, deletes or extends that date.

15 *SEC. 7. Section 186.22 of the Penal Code, as amended by*
16 *Section 276 of Chapter 15 of the Statutes of 2011, is amended to*
17 *read:*

18 186.22. (a) Any person who actively participates in any
19 criminal street gang with knowledge that its members engage in
20 or have engaged in a pattern of criminal gang activity, and who
21 willfully promotes, furthers, or assists in any felonious criminal
22 conduct by members of that gang, shall be punished by
23 imprisonment in a county jail for a period not to exceed one year,
24 or by imprisonment ~~pursuant to subdivision (h) of Section 1170~~
25 *in the state prison* for 16 months, or two or three years.

26 (b) (1) Except as provided in paragraphs (4) and (5), any person
27 who is convicted of a felony committed for the benefit of, at the
28 direction of, or in association with any criminal street gang, with
29 the specific intent to promote, further, or assist in any criminal
30 conduct by gang members, shall, upon conviction of that felony,
31 in addition and consecutive to the punishment prescribed for the
32 felony or attempted felony of which he or she has been convicted,
33 be punished as follows:

34 (A) Except as provided in subparagraphs (B) and (C), the person
35 shall be punished by an additional term ~~pursuant to subdivision~~
36 ~~(h) of Section 1170~~ of two, three, or four years at the court's
37 discretion.

38 (B) If the felony is a serious felony, as defined in subdivision
39 (c) of Section 1192.7, the person shall be punished by an additional
40 term of five years ~~in the state prison~~.

1 (C) If the felony is a violent felony, as defined in subdivision
2 (c) of Section 667.5, the person shall be punished by an additional
3 term of 10 years ~~in the state prison~~.

4 (2) If the underlying felony described in paragraph (1) is
5 committed on the grounds of, or within 1,000 feet of, a public or
6 private elementary, vocational, junior high, or high school, during
7 hours in which the facility is open for classes or school-related
8 programs or when minors are using the facility, that fact shall be
9 a circumstance in aggravation of the crime in imposing a term
10 under paragraph (1).

11 (3) The court shall order the imposition of the middle term of
12 the sentence enhancement, unless there are circumstances in
13 aggravation or mitigation. The court shall state the reasons for its
14 choice of sentencing enhancements on the record at the time of
15 the sentencing.

16 (4) Any person who is convicted of a felony enumerated in this
17 paragraph committed for the benefit of, at the direction of, or in
18 association with any criminal street gang, with the specific intent
19 to promote, further, or assist in any criminal conduct by gang
20 members, shall, upon conviction of that felony, be sentenced to
21 an indeterminate term of life imprisonment with a minimum term
22 of the indeterminate sentence calculated as the greater of:

23 (A) The term determined by the court pursuant to Section 1170
24 for the underlying conviction, including any enhancement
25 applicable under Chapter 4.5 (commencing with Section 1170) of
26 Title 7 of Part 2, or any period prescribed by Section 3046, if the
27 felony is any of the offenses enumerated in subparagraph (B) or
28 (C) of this paragraph.

29 (B) Imprisonment in the state prison for 15 years, if the felony
30 is a home invasion robbery, in violation of subparagraph (A) of
31 paragraph (1) of subdivision (a) of Section 213; carjacking, as
32 defined in Section 215; a felony violation of Section 246; or a
33 violation of Section 12022.55.

34 (C) Imprisonment in the state prison for seven years, if the
35 felony is extortion, as defined in Section 519; or threats to victims
36 and witnesses, as defined in Section 136.1.

37 (5) Except as provided in paragraph (4), any person who violates
38 this subdivision in the commission of a felony punishable by
39 imprisonment in the state prison for life shall not be paroled until
40 a minimum of 15 calendar years have been served.

1 (c) If the court grants probation or suspends the execution of
2 sentence imposed upon the defendant for a violation of subdivision
3 (a), or in cases involving a true finding of the enhancement
4 enumerated in subdivision (b), the court shall require that the
5 defendant serve a minimum of 180 days in a county jail as a
6 condition thereof.

7 (d) Any person who is convicted of a public offense punishable
8 as a felony or a misdemeanor, which is committed for the benefit
9 of, at the direction of, or in association with any criminal street
10 gang, with the specific intent to promote, further, or assist in any
11 criminal conduct by gang members, shall be punished by
12 imprisonment in the county jail not to exceed one year, or by
13 imprisonment ~~pursuant to subdivision (h) of Section 1170 in the~~
14 ~~state prison~~ for one, two, or three years, provided that any person
15 sentenced to imprisonment in the county jail ~~not exceeding one~~
16 ~~year~~ shall be imprisoned for a period of ~~not to exceed one year,~~
17 *but not* less than 180 days, and shall not be eligible for release
18 upon completion of sentence, parole, or any other basis, until he
19 or she has served 180 days. If the court grants probation or
20 suspends the execution of sentence imposed upon the defendant,
21 it shall require as a condition thereof that the defendant serve 180
22 days in a county jail.

23 (e) As used in this chapter, “pattern of criminal gang activity”
24 means the commission of, attempted commission of, conspiracy
25 to commit, or solicitation of, sustained juvenile petition for, or
26 conviction of two or more of the following offenses, provided at
27 least one of these offenses occurred after the effective date of this
28 chapter and the last of those offenses occurred within three years
29 after a prior offense, and the offenses were committed on separate
30 occasions, or by two or more persons:

31 (1) Assault with a deadly weapon or by means of force likely
32 to produce great bodily injury, as defined in Section 245.

33 (2) Robbery, as defined in Chapter 4 (commencing with Section
34 211) of Title 8 of Part 1.

35 (3) Unlawful homicide or manslaughter, as defined in Chapter
36 1 (commencing with Section 187) of Title 8 of Part 1.

37 (4) The sale, possession for sale, transportation, manufacture,
38 offer for sale, or offer to manufacture controlled substances as
39 defined in Sections 11054, 11055, 11056, 11057, and 11058 of
40 the Health and Safety Code.

- 1 (5) Shooting at an inhabited dwelling or occupied motor vehicle,
2 as defined in Section 246.
- 3 (6) Discharging or permitting the discharge of a firearm from
4 a motor vehicle, as defined in subdivisions (a) and (b) of Section
5 12034.
- 6 (7) Arson, as defined in Chapter 1 (commencing with Section
7 450) of Title 13.
- 8 (8) The intimidation of witnesses and victims, as defined in
9 Section 136.1.
- 10 (9) Grand theft, as defined in subdivision (a) or (c) of Section
11 487.
- 12 (10) Grand theft of any firearm, vehicle, trailer, or vessel.
- 13 (11) Burglary, as defined in Section 459.
- 14 (12) Rape, as defined in Section 261.
- 15 (13) Looting, as defined in Section 463.
- 16 (14) Money laundering, as defined in Section 186.10.
- 17 (15) Kidnapping, as defined in Section 207.
- 18 (16) Mayhem, as defined in Section 203.
- 19 (17) Aggravated mayhem, as defined in Section 205.
- 20 (18) Torture, as defined in Section 206.
- 21 (19) Felony extortion, as defined in Sections 518 and 520.
- 22 (20) Felony vandalism, as defined in paragraph (1) of
23 subdivision (b) of Section 594.
- 24 (21) Carjacking, as defined in Section 215.
- 25 (22) The sale, delivery, or transfer of a firearm, as defined in
26 Section 12072.
- 27 (23) Possession of a pistol, revolver, or other firearm capable
28 of being concealed upon the person in violation of paragraph (1)
29 of subdivision (a) of Section 12101.
- 30 (24) Threats to commit crimes resulting in death or great bodily
31 injury, as defined in Section 422.
- 32 (25) Theft and unlawful taking or driving of a vehicle, as defined
33 in Section 10851 of the Vehicle Code.
- 34 (26) Felony theft of an access card or account information, as
35 defined in Section 484e.
- 36 (27) Counterfeiting, designing, using, or attempting to use an
37 access card, as defined in Section 484f.
- 38 (28) Felony fraudulent use of an access card or account
39 information, as defined in Section 484g.

1 (29) Unlawful use of personal identifying information to obtain
2 credit, goods, services, or medical information, as defined in
3 Section 530.5.

4 (30) Wrongfully obtaining Department of Motor Vehicles
5 documentation, as defined in Section 529.7.

6 (31) Prohibited possession of a firearm in violation of Section
7 12021.

8 (32) Carrying a concealed firearm in violation of Section 12025.

9 (33) Carrying a loaded firearm in violation of Section 12031.

10 (f) As used in this chapter, “criminal street gang” means any
11 ongoing organization, association, or group of three or more
12 persons, whether formal or informal, having as one of its primary
13 activities the commission of one or more of the criminal acts
14 enumerated in paragraphs (1) to (25), inclusive, or (31) to (33),
15 inclusive, of subdivision (e), having a common name or common
16 identifying sign or symbol, and whose members individually or
17 collectively engage in or have engaged in a pattern of criminal
18 gang activity.

19 (g) Notwithstanding any other law, the court may strike the
20 additional punishment for the enhancements provided in this
21 section or refuse to impose the minimum jail sentence for
22 misdemeanors in an unusual case where the interests of justice
23 would best be served, if the court specifies on the record and enters
24 into the minutes the circumstances indicating that the interests of
25 justice would best be served by that disposition.

26 (h) Notwithstanding any other provision of law, for each person
27 committed to the Division of Juvenile Facilities for a conviction
28 pursuant to subdivision (a) or (b) of this section, the offense shall
29 be deemed one for which the state shall pay the rate of 100 percent
30 of the per capita institutional cost of the Division of Juvenile
31 Facilities, pursuant to Section 912.5 of the Welfare and Institutions
32 Code.

33 (i) In order to secure a conviction or sustain a juvenile petition,
34 pursuant to subdivision (a) it is not necessary for the prosecution
35 to prove that the person devotes all, or a substantial part, of his or
36 her time or efforts to the criminal street gang, nor is it necessary
37 to prove that the person is a member of the criminal street gang.
38 Active participation in the criminal street gang is all that is
39 required.

(j) A pattern of gang activity may be shown by the commission of one or more of the offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), and the commission of one or more of the offenses enumerated in paragraphs (1) to (25), inclusive, or (31) to (33), inclusive, of subdivision (e). A pattern of gang activity cannot be established solely by proof of commission of offenses enumerated in paragraphs (26) to (30), inclusive, of subdivision (e), alone.

(k) This section shall become operative on January 1, 2012.

SEC. 8. Section 186.26 of the Penal Code, as amended by Section 277 of Chapter 15 of the Statutes of 2011, is amended to read:

186.26. (a) Any person who solicits or recruits another to actively participate in a criminal street gang, as defined in subdivision (f) of Section 186.22, with the intent that the person solicited or recruited participate in a pattern of criminal street gang activity, as defined in subdivision (e) of Section 186.22, or with the intent that the person solicited or recruited promote, further, or assist in any felonious conduct by members of the criminal street gang, shall be punished by imprisonment ~~pursuant to subdivision (h) of Section 1170~~ in the state prison for 16 months, or two or three years.

(b) Any person who threatens another person with physical violence on two or more separate occasions within any 30-day period with the intent to coerce, induce, or solicit any person to actively participate in a criminal street gang, as defined in subdivision (f) of Section 186.22, shall be punished by imprisonment ~~pursuant to subdivision (h) of Section 1170~~ in the state prison for two, three, or four years.

(c) Any person who uses physical violence to coerce, induce, or solicit another person to actively participate in any criminal street gang, as defined in subdivision (f) of Section 186.22, or to prevent the person from leaving a criminal street gang, shall be punished by imprisonment ~~pursuant to subdivision (h) of Section 1170~~ in the state prison for three, four, or five years.

(d) If the person solicited, recruited, coerced, or threatened pursuant to subdivision (a), (b), or (c) is a minor, an additional term ~~pursuant to subdivision (h) of Section 1170~~ of three years shall be imposed in addition and consecutive to the penalty prescribed for a violation of any of these subdivisions.

1 (e) Nothing in this section shall be construed to limit prosecution
2 under any other provision of law.

3 *SEC. 9. Section 186.33 of the Penal Code, as amended by*
4 *Section 279 of Chapter 15 of the Statutes of 2011, is amended to*
5 *read:*

6 186.33. (a) Any person required to register pursuant to Section
7 186.30 who knowingly violates any of its provisions is guilty of
8 a misdemeanor.

9 (b) (1) Any person who knowingly fails to register pursuant to
10 Section 186.30 and is subsequently convicted of, or any person
11 for whom a petition is subsequently sustained for a violation of,
12 any of the offenses specified in Section 186.30, shall be punished
13 by an additional term of imprisonment pursuant to subdivision (h)
14 of Section 1170 in the state prison for 16 months, or two, or three
15 years. The court shall select the sentence enhancement which, in
16 the court's discretion, best serves the interests of justice and shall
17 state the reasons for its choice on the record at the time of
18 sentencing in accordance with the provisions of subdivision (d) of
19 Section 1170.1.

20 (2) The existence of any fact bringing a person under this
21 subdivision shall be alleged in the information, indictment, or
22 petition, and be either admitted by the defendant or minor in open
23 court, or found to be true or not true by the trier of fact.

24 (c) This section shall remain in effect only until January 1, 2012,
25 and as of that date is repealed, unless a later enacted statute, that
26 is enacted before January 1, 2012, deletes or extends that date.

27 *SEC. 10. Section 186.33 of the Penal Code, as amended by*
28 *Section 280 of Chapter 15 of the Statutes of 2011, is amended to*
29 *read:*

30 186.33. (a) Any person required to register pursuant to Section
31 186.30 who knowingly violates any of its provisions is guilty of
32 a misdemeanor.

33 (b) (1) Any person who knowingly fails to register pursuant to
34 Section 186.30 and is subsequently convicted of, or any person
35 for whom a petition is subsequently sustained for a violation of,
36 any of the offenses specified in Section 186.30, shall be punished
37 by an additional term of imprisonment pursuant to subdivision (h)
38 of Section 1170 in the state prison for 16 months, or two, or three
39 years. The court shall order imposition of the middle term unless
40 there are circumstances in aggravation or mitigation. The court

1 shall state its reasons for the enhancement choice on the record at
2 the time of sentencing.

3 (2) The existence of any fact bringing a person under this
4 subdivision shall be alleged in the information, indictment, or
5 petition, and be either admitted by the defendant or minor in open
6 court, or found to be true or not true by the trier of fact.

7 (c) This section shall become operative on January 1, 2012.

8 *SEC. 11. Section 245 of the Penal Code, as amended by Section*
9 *298 of Chapter 15 of the Statutes of 2011, is amended to read:*

10 245. (a) (1) Any person who commits an assault upon the
11 person of another with a deadly weapon or instrument other than
12 a firearm or by any means of force likely to produce great bodily
13 injury shall be punished by imprisonment ~~pursuant to subdivision~~
14 ~~(h) of Section 1170 in the state prison~~ for two, three, or four years,
15 or in a county jail for not exceeding one year, or by a fine not
16 exceeding ten thousand dollars (\$10,000), or by both the fine and
17 imprisonment.

18 (2) Any person who commits an assault upon the person of
19 another with a firearm shall be punished by imprisonment in the
20 state prison for two, three, or four years, or in a county jail for not
21 less than six months and not exceeding one year, or by both a fine
22 not exceeding ten thousand dollars (\$10,000) and imprisonment.

23 (3) Any person who commits an assault upon the person of
24 another with a machinegun, as defined in Section 16880, or an
25 assault weapon, as defined in Section 30510 or 30515, or a .50
26 BMG rifle, as defined in Section 30530, shall be punished by
27 imprisonment in the state prison for 4, 8, or 12 years.

28 (b) Any person who commits an assault upon the person of
29 another with a semiautomatic firearm shall be punished by
30 imprisonment in the state prison for three, six, or nine years.

31 (c) Any person who commits an assault with a deadly weapon
32 or instrument, other than a firearm, or by any means likely to
33 produce great bodily injury upon the person of a peace officer or
34 firefighter, and who knows or reasonably should know that the
35 victim is a peace officer or firefighter engaged in the performance
36 of his or her duties, when the peace officer or firefighter is engaged
37 in the performance of his or her duties, shall be punished by
38 imprisonment in the state prison for three, four, or five years.

39 (d) (1) Any person who commits an assault with a firearm upon
40 the person of a peace officer or firefighter, and who knows or

1 reasonably should know that the victim is a peace officer or
2 firefighter engaged in the performance of his or her duties, when
3 the peace officer or firefighter is engaged in the performance of
4 his or her duties, shall be punished by imprisonment in the state
5 prison for four, six, or eight years.

6 (2) Any person who commits an assault upon the person of a
7 peace officer or firefighter with a semiautomatic firearm and who
8 knows or reasonably should know that the victim is a peace officer
9 or firefighter engaged in the performance of his or her duties, when
10 the peace officer or firefighter is engaged in the performance of
11 his or her duties, shall be punished by imprisonment in the state
12 prison for five, seven, or nine years.

13 (3) Any person who commits an assault with a machinegun, as
14 defined in Section 16880, or an assault weapon, as defined in
15 Section 30510 or 30515, or a .50 BMG rifle, as defined in Section
16 30530, upon the person of a peace officer or firefighter, and who
17 knows or reasonably should know that the victim is a peace officer
18 or firefighter engaged in the performance of his or her duties, shall
19 be punished by imprisonment in the state prison for 6, 9, or 12
20 years.

21 (e) When a person is convicted of a violation of this section in
22 a case involving use of a deadly weapon or instrument or firearm,
23 and the weapon or instrument or firearm is owned by that person,
24 the court shall order that the weapon or instrument or firearm be
25 deemed a nuisance, and it shall be confiscated and disposed of in
26 the manner provided by Sections 18000 and 18005.

27 (f) As used in this section, “peace officer” refers to any person
28 designated as a peace officer in Chapter 4.5 (commencing with
29 Section 830) of Title 3 of Part 2.

30 *SEC. 12. Section 273.4 of the Penal Code, as amended by*
31 *Section 308 of Chapter 15 of the Statutes of 2011, is amended to*
32 *read:*

33 273.4. (a) If the act constituting a felony violation of
34 subdivision (a) of Section 273a was female genital mutilation, as
35 defined in subdivision (b), the defendant shall be punished by an
36 additional term of imprisonment ~~pursuant to subdivision (h) of~~
37 ~~Section 1170 in the state prison~~ for one year, in addition and
38 consecutive to the punishment prescribed by Section 273a.

1 (b) “Female genital mutilation” means the excision or
2 infibulation of the labia majora, labia minora, clitoris, or vulva,
3 performed for nonmedical purposes.

4 (c) Nothing in this section shall preclude prosecution under
5 Section 203, 205, or 206 or any other provision of law.

6 *SEC. 13. Section 290.018 of the Penal Code, as amended by*
7 *Section 318 of Chapter 15 of the Statutes of 2011, is amended to*
8 *read:*

9 290.018. (a) Any person who is required to register under the
10 Act based on a misdemeanor conviction or juvenile adjudication
11 who willfully violates any requirement of the act is guilty of a
12 misdemeanor punishable by imprisonment in a county jail not
13 exceeding one year.

14 (b) Except as provided in subdivisions (f), (h), and (j), any
15 person who is required to register under the act based on a felony
16 conviction or juvenile adjudication who willfully violates any
17 requirement of the act or who has a prior conviction or juvenile
18 adjudication for the offense of failing to register under the act and
19 who subsequently and willfully violates any requirement of the
20 act is guilty of a felony and shall be punished by imprisonment
21 pursuant to subdivision (h) of Section 1170 in the state prison for
22 16 months, or two or three years.

23 (c) If probation is granted or if the imposition or execution of
24 sentence is suspended, it shall be a condition of the probation or
25 suspension that the person serve at least 90 days in a county jail.
26 The penalty described in subdivision (b) or this subdivision shall
27 apply whether or not the person has been released on parole or has
28 been discharged from parole.

29 (d) Any person determined to be a mentally disordered sex
30 offender or who has been found guilty in the guilt phase of trial
31 for an offense for which registration is required under the act, but
32 who has been found not guilty by reason of insanity in the sanity
33 phase of the trial, or who has had a petition sustained in a juvenile
34 adjudication for an offense for which registration is required
35 pursuant to Section 290.008, but who has been found not guilty
36 by reason of insanity, who willfully violates any requirement of
37 the act is guilty of a misdemeanor and shall be punished by
38 imprisonment in a county jail not exceeding one year. For any
39 second or subsequent willful violation of any requirement of the
40 act, the person is guilty of a felony and shall be punished by

1 imprisonment ~~pursuant to subdivision (h) of Section 1170 in the~~
2 *state prison* for 16 months, or two or three years.

3 (e) If, after discharge from parole, the person is convicted of a
4 felony or suffers a juvenile adjudication as specified in this act,
5 he or she shall be required to complete parole of at least one year,
6 in addition to any other punishment imposed under this section.

7 A person convicted of a felony as specified in this section may be
8 granted probation only in the unusual case where the interests of
9 justice would best be served. When probation is granted under this
10 act, the court shall specify on the record and shall enter into the
11 minutes the circumstances indicating that the interests of justice
12 would best be served by the disposition.

13 (f) Any person who has ever been adjudicated a sexually violent
14 predator, as defined in Section 6600 of the Welfare and Institutions
15 Code, and who fails to verify his or her registration every 90 days
16 as required pursuant to subdivision (b) of Section 290.012, shall
17 be punished by imprisonment ~~pursuant to subdivision (h) of Section~~
18 ~~1170, in the state prison~~ or in a county jail not exceeding one year.

19 (g) Except as otherwise provided in subdivision (f), any person
20 who is required to register or reregister pursuant to Section 290.011
21 and willfully fails to comply with the requirement that he or she
22 reregister no less than every 30 days is guilty of a misdemeanor
23 and shall be punished by imprisonment in a county jail for at least
24 30 days, but not exceeding six months. A person who willfully
25 fails to comply with the requirement that he or she reregister no
26 less than every 30 days shall not be charged with this violation
27 more often than once for a failure to register in any period of 90
28 days. Any person who willfully commits a third or subsequent
29 violation of the requirements of Section 290.011 that he or she
30 reregister no less than every 30 days shall be punished in
31 accordance with either subdivision (a) or (b).

32 (h) Any person who fails to provide proof of residence as
33 required by paragraph (5) of subdivision (a) of Section 290.015,
34 regardless of the offense upon which the duty to register is based,
35 is guilty of a misdemeanor punishable by imprisonment in a county
36 jail not exceeding six months.

37 (i) Any person who is required to register under the act who
38 willfully violates any requirement of the act is guilty of a
39 continuing offense as to each requirement he or she violated.

(j) In addition to any other penalty imposed under this section, the failure to provide information required on registration and reregistration forms of the Department of Justice, or the provision of false information, is a crime punishable by imprisonment in a county jail for a period not exceeding one year. Nothing in this subdivision shall be construed to limit or prevent prosecution under any applicable provision of law.

(k) Whenever any person is released on parole or probation and is required to register under the act but fails to do so within the time prescribed, the parole authority or the court, as the case may be, shall order the parole or probation of the person revoked. For purposes of this subdivision, “parole authority” has the same meaning as described in Section 3000.

SEC. 14. Section 298.2 of the Penal Code, as amended by Section 322 of Chapter 15 of the Statutes of 2011, is amended to read:

298.2. (a) Any person who is required to submit a specimen sample or print impression pursuant to this chapter who engages or attempts to engage in any of the following acts is guilty of a felony punishable by imprisonment pursuant to subdivision (h) of Section 1170 in the state prison for two, three, or four years:

(1) Knowingly facilitates the collection of a wrongfully attributed blood specimen, buccal swab sample, or thumb or palm print impression, with the intent that a government agent or employee be deceived as to the origin of a DNA profile or as to any identification information associated with a specimen, sample, or print impression required for submission pursuant to this chapter.

(2) Knowingly tampers with any specimen, sample, print, or the collection container for any specimen or sample, with the intent that any government agent or employee be deceived as to the identity of the person to whom the specimen, sample, or print relates.

SEC. 15. Section 299.5 of the Penal Code, as amended by Section 323 of Chapter 15 of the Statutes of 2011, is amended to read:

299.5. (a) All DNA and forensic identification profiles and other identification information retained by the Department of Justice pursuant to this chapter are exempt from any law requiring disclosure of information to the public and shall be confidential except as otherwise provided in this chapter.

1 (b) All evidence and forensic samples containing biological
2 material retained by the Department of Justice DNA Laboratory
3 or other state law enforcement agency are exempt from any law
4 requiring disclosure of information to the public or the return of
5 biological specimens, samples, or print impressions.

6 (c) Non-DNA forensic identification information may be filed
7 with the offender's file maintained by the Sex Registration Unit
8 of the Department of Justice or in other computerized data bank
9 or database systems maintained by the Department of Justice.

10 (d) The DNA and other forensic identification information
11 retained by the Department of Justice pursuant to this chapter shall
12 not be included in the state summary criminal history information.
13 However, nothing in this chapter precludes law enforcement
14 personnel from entering into a person's criminal history
15 information or offender file maintained by the Department of
16 Justice, the fact that the specimens, samples, and print impressions
17 required by this chapter have or have not been collected from that
18 person.

19 (e) The fact that the blood specimens, saliva or buccal swab
20 samples, and print impressions required by this chapter have been
21 received by the DNA Laboratory of the Department of Justice shall
22 be included in the state summary criminal history information as
23 soon as administratively practicable.

24 The full palm prints of each hand shall be filed and maintained
25 by the Automated Latent Print Section of the Bureau of Criminal
26 Identification and Information of the Department of Justice, and
27 may be included in the state summary criminal history information.

28 (f) DNA samples and DNA profiles and other forensic
29 identification information shall be released only to law enforcement
30 agencies, including, but not limited to, parole officers of the
31 Department of Corrections, hearing officers of the parole authority,
32 probation officers, the Attorney General's office, district attorneys'
33 offices, and prosecuting city attorneys' offices, unless otherwise
34 specifically authorized by this chapter. Dissemination of DNA
35 specimens, samples, and DNA profiles and other forensic
36 identification information to law enforcement agencies and district
37 attorneys' offices outside this state shall be performed in
38 conformity with the provisions of this chapter.

39 (g) A defendant's DNA and other forensic identification
40 information developed pursuant to this chapter shall be available

1 to his or her defense counsel upon court order made pursuant to
2 Chapter 10 (commencing with Section 1054) of Title 6 of Part 2.

3 (h) Except as provided in subdivision (g) and in order to protect
4 the confidentiality and privacy of database and data bank
5 information, the Department of Justice and local public DNA
6 laboratories shall not otherwise be compelled in a criminal or civil
7 proceeding to provide any DNA profile or forensic identification
8 database or data bank information or its computer database program
9 software or structures to any person or party seeking such records
10 or information whether by subpoena or discovery, or other
11 procedural device or inquiry.

12 (i) (1) (A) Any person who knowingly uses an offender
13 specimen, sample, or DNA profile collected pursuant to this chapter
14 for other than criminal identification or exclusion purposes, or for
15 other than the identification of missing persons, or who knowingly
16 discloses DNA or other forensic identification information
17 developed pursuant to this section to an unauthorized individual
18 or agency, for other than criminal identification or exclusion
19 purposes, or for the identification of missing persons, in violation
20 of this chapter, shall be punished by imprisonment in a county jail
21 not exceeding one year or by imprisonment pursuant to subdivision
22 ~~(h) of Section 1170 in the state prison for 16 months, or two or~~
23 ~~three years.~~

24 (B) Any person who, for the purpose of financial gain,
25 knowingly uses a specimen, sample, or DNA profile collected
26 pursuant to this chapter for other than criminal identification or
27 exclusion purposes or for the identification of missing persons or
28 who, for the purpose of financial gain, knowingly discloses DNA
29 or other forensic identification information developed pursuant to
30 this section to an unauthorized individual or agency, for other than
31 criminal identification or exclusion purposes or for other than the
32 identification of missing persons, in violation of this chapter, shall,
33 in addition to the penalty provided in subparagraph (A), be
34 punished by a criminal fine in an amount three times that of any
35 financial gain received or ten thousand dollars (\$10,000),
36 whichever is greater.

37 (2) (A) If any employee of the Department of Justice knowingly
38 uses a specimen, sample, or DNA profile collected pursuant to this
39 chapter for other than criminal identification or exclusion purposes,
40 or knowingly discloses DNA or other forensic identification

1 information developed pursuant to this section to an unauthorized
2 individual or agency, for other than criminal identification or
3 exclusion purposes or for other than the identification of missing
4 persons, in violation of this chapter, the department shall be liable
5 in civil damages to the donor of the DNA identification information
6 in the amount of five thousand dollars (\$5,000) for each violation,
7 plus attorney's fees and costs. In the event of multiple disclosures,
8 the total damages available to the donor of the DNA is limited to
9 fifty thousand dollars (\$50,000) plus attorney's fees and costs.

10 (B) (i) Notwithstanding any other law, this shall be the sole
11 and exclusive remedy against the Department of Justice and its
12 employees available to the donor of the DNA.

13 (ii) The Department of Justice employee disclosing DNA
14 identification information in violation of this chapter shall be
15 absolutely immune from civil liability under this or any other law.

16 (3) It is not a violation of this section for a law enforcement
17 agency in its discretion to publicly disclose the fact of a DNA
18 profile match, or the name of the person identified by the DNA
19 match when this match is the basis of law enforcement's
20 investigation, arrest, or prosecution of a particular person, or the
21 identification of a missing or abducted person.

22 (j) It is not a violation of this chapter to furnish DNA or other
23 forensic identification information of the defendant to his or her
24 defense counsel for criminal defense purposes in compliance with
25 discovery.

26 (k) It is not a violation of this section for law enforcement to
27 release DNA and other forensic identification information
28 developed pursuant to this chapter to a jury or grand jury, or in a
29 document filed with a court or administrative agency, or as part
30 of a judicial or administrative proceeding, or for this information
31 to become part of the public transcript or record of proceedings
32 when, in the discretion of law enforcement, disclosure is necessary
33 because the DNA information pertains to the basis for law
34 enforcement's identification, arrest, investigation, prosecution, or
35 exclusion of a particular person related to the case.

36 (l) It is not a violation of this section to include information
37 obtained from a file in a transcript or record of a judicial
38 proceeding, or in any other public record when the inclusion of
39 the information in the public record is authorized by a court, statute,
40 or decisional law.

(m) It is not a violation of this section for the DNA Laboratory of the Department of Justice, or an organization retained as an agent of the Department of Justice, or a local public laboratory to use anonymous records or criminal history information obtained pursuant to this chapter for training, research, statistical analysis of populations, or quality assurance or quality control.

(n) The Department of Justice shall make public the methodology and procedures to be used in its DNA program prior to the commencement of DNA testing in its laboratories. The Department of Justice shall review and consider on an ongoing basis the findings and results of any peer review and validation studies submitted to the department by members of the relevant scientific community experienced in the use of DNA technology. This material shall be available to criminal defense counsel upon court order made pursuant to Chapter 10 (commencing with Section 1054) of Title 6 of Part 2.

(o) In order to maintain the computer system security of the Department of Justice DNA and Forensic Identification Database and Data Bank Program, the computer software and database structures used by the DNA Laboratory of the Department of Justice to implement this chapter are confidential.

SEC. 16. Section 422 of the Penal Code, as amended by Section 351 of Chapter 15 of the Statutes of 2011, is amended to read:

422. (a) Any person who willfully threatens to commit a crime which will result in death or great bodily injury to another person, with the specific intent that the statement, made verbally, in writing, or by means of an electronic communication device, is to be taken as a threat, even if there is no intent of actually carrying it out, which, on its face and under the circumstances in which it is made, is so unequivocal, unconditional, immediate, and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety, shall be punished by imprisonment in the county jail not to exceed one year, or by imprisonment pursuant to subdivision (h) of Section 1170 in the state prison.

For

(b) For purposes of this section, "immediate family" means any spouse, whether by marriage or not, parent, child, any person

1 related by consanguinity or affinity within the second degree, or
2 any other person who regularly resides in the household, or who,
3 within the prior six months, regularly resided in the household.

4 “Electronic

5 (c) “Electronic communication device” includes, but is not
6 limited to, telephones, cellular telephones, computers, video
7 recorders, fax machines, or pagers. “Electronic communication”
8 has the same meaning as the term defined in Subsection 12 of
9 Section 2510 of Title 18 of the United States Code.

10 SEC. 17. Section 455 of the Penal Code, as amended by Section
11 354 of Chapter 15 of the Statutes of 2011, is amended to read:

12 455. (a) Any person who willfully and maliciously attempts
13 to set fire to or attempts to burn or to aid, counsel or procure the
14 burning of any structure, forest land or property, or who commits
15 any act preliminary thereto, or in furtherance thereof, is punishable
16 by imprisonment pursuant to subdivision (h) of Section 1170 in
17 the state prison for 16 months, two or three years.

18 The

19 (b) The placing or distributing of any flammable, explosive or
20 combustible material or substance, or any device in or about any
21 structure, forest land or property in an arrangement or preparation
22 with intent to eventually willfully and maliciously set fire to or
23 burn same, or to procure the setting fire to or burning of the same
24 shall, for the purposes of this act constitute an attempt to burn such
25 structure, forest land or property.

26 SEC. 18. Section 598c of the Penal Code, as amended by
27 Section 412 of Chapter 15 of the Statutes of 2011, is amended to
28 read:

29 598c. (a) Notwithstanding any other provision of law, it is
30 unlawful for any person to possess, to import into or export from
31 the state, or to sell, buy, give away, hold, or accept any horse with
32 the intent of killing, or having another kill, that horse, if that person
33 knows or should have known that any part of that horse will be
34 used for human consumption.

35 (b) For purposes of this section, “horse” means any equine,
36 including any horse, pony, burro, or mule.

37 (c) Violation of this section is a felony punishable by
38 imprisonment pursuant to subdivision (h) of Section 1170 in the
39 state prison for 16 months, or two or three years.

(d) It is not the intent of this section to affect any commonly accepted commercial, noncommercial, recreational, or sporting activity that relates to horses.

(e) It is not the intent of this section to affect any existing law that relates to horse taxation or zoning.

SEC. 19. Section 598d of the Penal Code, as amended by Section 413 of Chapter 15 of the Statutes of 2011, is amended to read:

598d. (a) Notwithstanding any other provision of law, horsemeat may not be offered for sale for human consumption. No restaurant, cafe, or other public eating place may offer horsemeat for human consumption.

(b) Violation of this section is a misdemeanor punishable by a fine of not more than one thousand dollars (\$1,000), or by confinement in jail for not less than 30 days nor more than two years, or by both that fine and confinement.

(c) A second or subsequent offense under this section is punishable by imprisonment pursuant to subdivision (h) of Section 1170 in the state prison for not less than two years nor more than five years.

SEC. 20. Section 600 of the Penal Code, as amended by Section 414 of Chapter 15 of the Statutes of 2011, is amended to read:

600. (a) Any person who willfully and maliciously and with no legal justification strikes, beats, kicks, cuts, stabs, shoots with a firearm, administers any poison or other harmful or stupefying substance to, or throws, hurls, or projects at, or places any rock, object, or other substance which is used in such a manner as to be capable of producing injury and likely to produce injury, on or in the path of, any horse being used by, or any dog under the supervision of, any peace officer in the discharge or attempted discharge of his or her duties, is guilty of a public offense. If the injury inflicted is a serious injury, as defined in subdivision (c), the person shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 for 16 months, two or three years, or in a county jail for not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both a fine and imprisonment. If the injury inflicted is not a serious injury, the person shall be punished by imprisonment in the county jail for not exceeding one year, or by a fine not exceeding one thousand dollars (\$1,000), or by both a fine and imprisonment.

1 (b) Any person who willfully and maliciously and with no legal
2 justification interferes with or obstructs any horse or dog being
3 used by any peace officer in the discharge or attempted discharge
4 of his or her duties by frightening, teasing, agitating, harassing, or
5 hindering the horse or dog shall be punished by imprisonment in
6 a county jail for not exceeding one year, or by a fine not exceeding
7 one thousand dollars (\$1,000), or by both a fine and imprisonment.

8 (c) Any person who, in violation of this section, and with intent
9 to inflict that injury or death, personally causes the death,
10 destruction, or serious physical injury including bone fracture, loss
11 or impairment of function of any bodily member, wounds requiring
12 extensive suturing, or serious crippling, of any horse or dog, shall,
13 upon conviction of a felony under this section, in addition and
14 consecutive to the punishment prescribed for the felony, be
15 punished by an additional term of imprisonment pursuant to
16 subdivision (h) of Section 1170 for one year.

17 (d) Any person who, in violation of this section, and with the
18 intent to inflict that injury, personally causes great bodily injury,
19 as defined in Section 12022.7, to any person not an accomplice,
20 shall, upon conviction of a felony under this section, in addition
21 and consecutive to the punishment prescribed for the felony, be
22 punished by an additional term of imprisonment ~~pursuant to~~
23 ~~subdivision (h) of Section 1170 in the state prison~~ for two years
24 unless the conduct described in this subdivision is an element of
25 any other offense of which the person is convicted or receives an
26 enhancement under Section 12022.7.

27 (e) In any case in which a defendant is convicted of a violation
28 of this section, the defendant shall be ordered to make restitution
29 to the agency owning the animal and employing the peace officer
30 for any veterinary bills, replacement costs of the animal if it is
31 disabled or killed, and the salary of the peace officer for the period
32 of time his or her services are lost to the agency.

33 *SEC. 21. Section 666 of the Penal Code, as amended by Section*
34 *440 of Chapter 15 of the Statutes of 2011, is amended to read:*

35 666. (a) Notwithstanding Section 490, every person who,
36 having been convicted three or more times of petty theft, grand
37 theft, auto theft under Section 10851 of the Vehicle Code, burglary,
38 carjacking, robbery, or a felony violation of Section 496 and having
39 served a term therefor in any penal institution or having been
40 imprisoned therein as a condition of probation for that offense, is

1 subsequently convicted of petty theft, then the person convicted
2 of that subsequent offense is punishable by imprisonment in the
3 county jail not exceeding one year, or imprisonment pursuant to
4 subdivision (h) of Section 1170.

5 *(b) Notwithstanding Section 490, any person described in*
6 *paragraph (1) who, having been convicted of petty theft, grand*
7 *theft, auto theft under Section 10851 of the Vehicle Code, burglary,*
8 *carjacking, robbery, or a felony violation of Section 496, and*
9 *having served a term of imprisonment therefor in any penal*
10 *institution or having been imprisoned therein as a condition of*
11 *probation for that offense, who is subsequently convicted of petty*
12 *theft, is punishable by imprisonment in the county jail not*
13 *exceeding one year, or in the state prison.*

14 *(1) This subdivision shall apply to any person who is required*
15 *to register pursuant to the Sex Offender Registration Act, or who*
16 *has a prior violent or serious felony conviction, as specified in*
17 *subdivision (c) of Section 667.5 or subdivision (c) of Section*
18 *1192.7.*

19 *(2) This subdivision shall not be construed to preclude*
20 *prosecution or punishment pursuant to subdivisions (b) to (i),*
21 *inclusive, of Section 667, or Section 1170.12.*

22 *SEC. 22. Section 667.5 of the Penal Code, as amended by*
23 *Section 442 of Chapter 15 of the Statutes of 2011, is amended to*
24 *read:*

25 *667.5. Enhancement of prison terms for new offenses because*
26 *of prior prison terms shall be imposed as follows:*

27 *(a) Where one of the new offenses is one of the violent felonies*
28 *specified in subdivision (c), in addition to and consecutive to any*
29 *other prison terms therefor, the court shall impose a three-year*
30 *term for each prior separate prison term served by the defendant*
31 *where the prior offense was one of the violent felonies specified*
32 *in subdivision (c). However, no additional term shall be imposed*
33 *under this subdivision for any prison term served prior to a period*
34 *of 10 years in which the defendant remained free of both prison*
35 *custody and the commission of an offense which results in a felony*
36 *conviction.*

37 *(b) Except where subdivision (a) applies, where the new offense*
38 *is any felony for which a prison sentence or a sentence of*
39 *imprisonment in a county jail for more than one year is imposed*
40 *or is not suspended, in addition and consecutive to any other prison*

1 terms therefor, the court shall impose a one-year term for each
2 prior separate prison term or county jail term of more than one
3 year-~~served~~ *imposed or when sentence is not suspended* for any
4 felony; provided that no additional term shall be imposed under
5 this subdivision for any prison term or county jail term of more
6 than one year-~~served~~ *imposed or when sentence is not suspended*
7 prior to a period of five years in which the defendant remained
8 free of both the commission of an offense which results in a felony
9 conviction, and prison custody or *the imposition of a term of jail*
10 *custody of more than one year or any felony sentence that is not*
11 *suspended.*

12 (c) For the purpose of this section, “violent felony” shall mean
13 any of the following:

14 (1) Murder or voluntary manslaughter.

15 (2) Mayhem.

16 (3) Rape as defined in paragraph (2) or (6) of subdivision (a)
17 of Section 261 or paragraph (1) or (4) of subdivision (a) of Section
18 262.

19 (4) Sodomy as defined in subdivision (c) or (d) of Section 286.

20 (5) Oral copulation as defined in subdivision (c) or (d) of Section
21 288a.

22 (6) Lewd or lascivious act as defined in subdivision (a) or (b)
23 of Section 288.

24 (7) Any felony punishable by death or imprisonment in the state
25 prison for life.

26 (8) Any felony in which the defendant inflicts great bodily injury
27 on any person other than an accomplice which has been charged
28 and proved as provided for in Section 12022.7, 12022.8, or 12022.9
29 on or after July 1, 1977, or as specified prior to July 1, 1977, in
30 Sections 213, 264, and 461, or any felony in which the defendant
31 uses a firearm which use has been charged and proved as provided
32 in subdivision (a) of Section 12022.3, or Section 12022.5 or
33 12022.55.

34 (9) Any robbery.

35 (10) Arson, in violation of subdivision (a) or (b) of Section 451.

36 (11) Sexual penetration as defined in subdivision (a) or (j) of
37 Section 289.

38 (12) Attempted murder.

39 (13) A violation of Section 12308, 12309, or 12310.

40 (14) Kidnapping.

1 (15) Assault with the intent to commit a specified felony, in
2 violation of Section 220.

3 (16) Continuous sexual abuse of a child, in violation of Section
4 288.5.

5 (17) Carjacking, as defined in subdivision (a) of Section 215.

6 (18) Rape, spousal rape, or sexual penetration, in concert, in
7 violation of Section 264.1.

8 (19) Extortion, as defined in Section 518, which would constitute
9 a felony violation of Section 186.22 of the Penal Code.

10 (20) Threats to victims or witnesses, as defined in Section 136.1,
11 which would constitute a felony violation of Section 186.22 of the
12 Penal Code.

13 (21) Any burglary of the first degree, as defined in subdivision
14 (a) of Section 460, wherein it is charged and proved that another
15 person, other than an accomplice, was present in the residence
16 during the commission of the burglary.

17 (22) Any violation of Section 12022.53.

18 (23) A violation of subdivision (b) or (c) of Section 11418. The
19 Legislature finds and declares that these specified crimes merit
20 special consideration when imposing a sentence to display society's
21 condemnation for these extraordinary crimes of violence against
22 the person.

23 (d) For the purposes of this section, the defendant shall be
24 deemed to remain in prison custody for an offense until the official
25 discharge from custody or until release on parole, whichever first
26 occurs, including any time during which the defendant remains
27 subject to reimprisonment for escape from custody or is
28 reimprisoned on revocation of parole. The additional penalties
29 provided for prior prison terms shall not be imposed unless they
30 are charged and admitted or found true in the action for the new
31 offense.

32 (e) The additional penalties provided for prior prison terms shall
33 not be imposed for any felony for which the defendant did not
34 serve a prior separate term in state prison.

35 (f) A prior conviction of a felony shall include a conviction in
36 another jurisdiction for an offense which, if committed in
37 California, is punishable by imprisonment in the state prison if the
38 defendant served one year or more in prison for the offense in the
39 other jurisdiction. A prior conviction of a particular felony shall
40 include a conviction in another jurisdiction for an offense which

1 includes all of the elements of the particular felony as defined
2 under California law if the defendant served one year or more in
3 prison for the offense in the other jurisdiction.

4 (g) A prior separate prison term for the purposes of this section
5 shall mean a continuous completed period of prison incarceration
6 imposed for the particular offense alone or in combination with
7 concurrent or consecutive sentences for other crimes, including
8 any reimprisonment on revocation of parole which is not
9 accompanied by a new commitment to prison, and including any
10 reimprisonment after an escape from incarceration.

11 (h) Serving a prison term includes any confinement time in any
12 state prison or federal penal institution as punishment for
13 commission of an offense, including confinement in a hospital or
14 other institution or facility credited as service of prison time in the
15 jurisdiction of the confinement.

16 (i) For the purposes of this section, a commitment to the State
17 Department of Mental Health as a mentally disordered sex offender
18 following a conviction of a felony, which commitment exceeds
19 one year in duration, shall be deemed a prior prison term.

20 (j) For the purposes of this section, when a person subject to
21 the custody, control, and discipline of the Director of Corrections
22 is incarcerated at a facility operated by the Department of the Youth
23 Authority, that incarceration shall be deemed to be a term served
24 in state prison.

25 (k) (1) Notwithstanding subdivisions (d) and (g) or any other
26 provision of law, where one of the new offenses is committed
27 while the defendant is temporarily removed from prison pursuant
28 to Section 2690 or while the defendant is transferred to a
29 community facility pursuant to Section 3416, 6253, or 6263, or
30 while the defendant is on furlough pursuant to Section 6254, the
31 defendant shall be subject to the full enhancements provided for
32 in this section.

33 (2) This subdivision shall not apply when a full, separate, and
34 consecutive term is imposed pursuant to any other provision of
35 law.

36 *SEC. 23. Section 667.5 of the Penal Code, as amended by*
37 *Section 443 of Chapter 15 of the Statutes of 2011, is amended to*
38 *read:*

39 667.5. Enhancement of prison terms for new offenses because
40 of prior prison terms shall be imposed as follows:

(a) Where one of the new offenses is one of the violent felonies specified in subdivision (c), in addition to and consecutive to any other prison terms therefor, the court shall impose a three-year term for each prior separate prison term served by the defendant where the prior offense was one of the violent felonies specified in subdivision (c). However, no additional term shall be imposed under this subdivision for any prison term served prior to a period of 10 years in which the defendant remained free of both prison custody and the commission of an offense which results in a felony conviction.

(b) Except where subdivision (a) applies, where the new offense is any felony for which a prison sentence or a sentence of imprisonment in a county jail for more than one year is imposed *or is not suspended*, in addition and consecutive to any other prison terms therefor, the court shall impose a one-year term for each prior separate prison term or county jail term of more than one year ~~served imposed~~ *imposed or when sentence is not suspended* for any felony; provided that no additional term shall be imposed under this subdivision for any prison term or county jail term of more than one year ~~served imposed~~ *imposed or when sentence is not suspended* prior to a period of five years in which the defendant remained free of both the commission of an offense which results in a felony conviction, and prison custody *or the imposition of a term of jail custody of more than one year or any felony sentence that is not suspended*.

(c) For the purpose of this section, “violent felony” shall mean any of the following:

- (1) Murder or voluntary manslaughter.
- (2) Mayhem.
- (3) Rape as defined in paragraph (2) or (6) of subdivision (a) of Section 261 or paragraph (1) or (4) of subdivision (a) of Section 262.
- (4) Sodomy as defined in subdivision (c) or (d) of Section 286.
- (5) Oral copulation as defined in subdivision (c) or (d) of Section 288a.
- (6) Lewd or lascivious act as defined in subdivision (a) or (b) of Section 288.
- (7) Any felony punishable by death or imprisonment in the state prison for life.

(8) Any felony in which the defendant inflicts great bodily injury on any person other than an accomplice which has been charged and proved as provided for in Section 12022.7, 12022.8, or 12022.9 on or after July 1, 1977, or as specified prior to July 1, 1977, in Sections 213, 264, and 461, or any felony in which the defendant uses a firearm which use has been charged and proved as provided in subdivision (a) of Section 12022.3, or Section 12022.5 or 12022.55.

(9) Any robbery.

(10) Arson, in violation of subdivision (a) or (b) of Section 451.

(11) Sexual penetration as defined in subdivision (a) or (j) of Section 289.

(12) Attempted murder.

(13) A violation of Section 18745, 18750, or 18755.

(14) Kidnapping.

(15) Assault with the intent to commit a specified felony, in violation of Section 220.

(16) Continuous sexual abuse of a child, in violation of Section 288.5.

(17) Carjacking, as defined in subdivision (a) of Section 215.

(18) Rape, spousal rape, or sexual penetration, in concert, in violation of Section 264.1.

(19) Extortion, as defined in Section 518, which would constitute a felony violation of Section 186.22 of the Penal Code.

(20) Threats to victims or witnesses, as defined in Section 136.1, which would constitute a felony violation of Section 186.22 of the Penal Code.

(21) Any burglary of the first degree, as defined in subdivision (a) of Section 460, wherein it is charged and proved that another person, other than an accomplice, was present in the residence during the commission of the burglary.

(22) Any violation of Section 12022.53.

(23) A violation of subdivision (b) or (c) of Section 11418. The Legislature finds and declares that these specified crimes merit special consideration when imposing a sentence to display society's condemnation for these extraordinary crimes of violence against the person.

(d) For the purposes of this section, the defendant shall be deemed to remain in prison custody for an offense until the official discharge from custody or until release on parole, whichever first

1 occurs, including any time during which the defendant remains
2 subject to reimprisonment for escape from custody or is
3 reimprisoned on revocation of parole. The additional penalties
4 provided for prior prison terms shall not be imposed unless they
5 are charged and admitted or found true in the action for the new
6 offense.

7 (e) The additional penalties provided for prior prison terms shall
8 not be imposed for any felony for which the defendant did not
9 serve a prior separate term in state prison.

10 (f) A prior conviction of a felony shall include a conviction in
11 another jurisdiction for an offense which, if committed in
12 California, is punishable by imprisonment in the state prison if the
13 defendant served one year or more in prison for the offense in the
14 other jurisdiction. A prior conviction of a particular felony shall
15 include a conviction in another jurisdiction for an offense which
16 includes all of the elements of the particular felony as defined
17 under California law if the defendant served one year or more in
18 prison for the offense in the other jurisdiction.

19 (g) A prior separate prison term for the purposes of this section
20 shall mean a continuous completed period of prison incarceration
21 imposed for the particular offense alone or in combination with
22 concurrent or consecutive sentences for other crimes, including
23 any reimprisonment on revocation of parole which is not
24 accompanied by a new commitment to prison, and including any
25 reimprisonment after an escape from incarceration.

26 (h) Serving a prison term includes any confinement time in any
27 state prison or federal penal institution as punishment for
28 commission of an offense, including confinement in a hospital or
29 other institution or facility credited as service of prison time in the
30 jurisdiction of the confinement.

31 (i) For the purposes of this section, a commitment to the State
32 Department of Mental Health as a mentally disordered sex offender
33 following a conviction of a felony, which commitment exceeds
34 one year in duration, shall be deemed a prior prison term.

35 (j) For the purposes of this section, when a person subject to
36 the custody, control, and discipline of the Director of Corrections
37 is incarcerated at a facility operated by the Department of the Youth
38 Authority, that incarceration shall be deemed to be a term served
39 in state prison.

(k) (1) Notwithstanding subdivisions (d) and (g) or any other provision of law, where one of the new offenses is committed while the defendant is temporarily removed from prison pursuant to Section 2690 or while the defendant is transferred to a community facility pursuant to Section 3416, 6253, or 6263, or while the defendant is on furlough pursuant to Section 6254, the defendant shall be subject to the full enhancements provided for in this section.

(2) This subdivision shall not apply when a full, separate, and consecutive term is imposed pursuant to any other provision of law.

SEC. 24. Section 800 of the Penal Code, as amended by Section 445 of Chapter 15 of the Statutes of 2011, is amended to read:

800. Except as provided in Section 799, prosecution for an offense punishable by imprisonment in the state prison pursuant to subdivision (h) of Section 1170 for eight years or more shall be commenced within six years after commission of the offense.

SEC. 25. Section 830.5 of the Penal Code, as amended by Section 44 of Chapter 1124 of the Statutes of 2002, is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Except as specified in this section, these peace officers may carry firearms only if authorized and under those terms and conditions specified by their employing agency:

(a) A parole officer of the Department of Corrections or the Department of the Youth Authority, probation officer, deputy probation officer, or a board coordinating parole agent employed by the Youthful Offender Parole Board. Except as otherwise provided in this subdivision, the authority of these parole or probation officers shall extend only as follows:

(1) To conditions of parole ~~or of~~, probation, *or postrelease community supervision* by any person in this state on parole ~~or~~, *or postrelease community supervision.* probation.

(2) To the escape of any inmate or ward from a state or local institution.

1 (3) To the transportation of persons on parole-~~or~~, probation, *or*
2 *postrelease community supervision*.

3 (4) To violations of any penal provisions of law which are
4 discovered while performing the usual or authorized duties of his
5 or her employment.

6 (5) To the rendering of mutual aid to any other law enforcement
7 agency.

8 For the purposes of this subdivision, “parole agent” shall have
9 the same meaning as parole officer of the Department of
10 Corrections or of the Department of the Youth Authority.

11 Any parole officer of the Department of Corrections, the
12 Department of the Youth Authority, or the Youthful Offender
13 Parole Board is authorized to carry firearms, but only as determined
14 by the director on a case-by-case or unit-by-unit basis and only
15 under those terms and conditions specified by the director or
16 chairperson. The Department of the Youth Authority shall develop
17 a policy for arming peace officers of the Department of the Youth
18 Authority who comprise “high-risk transportation details” or
19 “high-risk escape details” no later than June 30, 1995. This policy
20 shall be implemented no later than December 31, 1995.

21 The Department of the Youth Authority shall train and arm those
22 peace officers who comprise tactical teams at each facility for use
23 during “high-risk escape details.”

24 (b) A correctional officer employed by the Department of
25 Corrections or any employee of the Department of the Youth
26 Authority having custody of wards or the Inspector General of the
27 Youth and Adult Correctional Agency or any internal affairs
28 investigator under the authority of the Inspector General or any
29 employee of the Department of Corrections designated by the
30 Director of Corrections or any correctional counselor series
31 employee of the Department of Corrections or any medical
32 technical assistant series employee designated by the Director of
33 Corrections or designated by the Director of Corrections and
34 employed by the State Department of Mental Health or employee
35 of the Board of Prison Terms designated by the Secretary of the
36 Youth and Adult Correctional Agency or employee of the
37 Department of the Youth Authority designated by the Director of
38 the Youth Authority or any superintendent, supervisor, or employee
39 having custodial responsibilities in an institution operated by a

1 probation department, or any transportation officer of a probation
2 department.

3 (c) The following persons may carry a firearm while not on
4 duty: a parole officer of the Department of Corrections or the
5 Department of the Youth Authority, a correctional officer or
6 correctional counselor employed by the Department of Corrections
7 or any employee of the Department of the Youth Authority having
8 custody of wards or any employee of the Department of Corrections
9 designated by the Director of Corrections. A parole officer of the
10 Youthful Offender Parole Board may carry a firearm while not on
11 duty only when so authorized by the chairperson of the board and
12 only under the terms and conditions specified by the chairperson.
13 Nothing in this section shall be interpreted to require licensure
14 pursuant to Section 12025. The director or chairperson may deny,
15 suspend, or revoke for good cause a person's right to carry a
16 firearm under this subdivision. That person shall, upon request,
17 receive a hearing, as provided for in the negotiated grievance
18 procedure between the exclusive employee representative and the
19 Department of Corrections, the Department of the Youth Authority,
20 or the Youthful Offender Parole Board, to review the director's or
21 the chairperson's decision.

22 (d) Persons permitted to carry firearms pursuant to this section,
23 either on or off duty, shall meet the training requirements of Section
24 832 and shall qualify with the firearm at least quarterly. It is the
25 responsibility of the individual officer or designee to maintain his
26 or her eligibility to carry concealable firearms off duty. Failure to
27 maintain quarterly qualifications by an officer or designee with
28 any concealable firearms carried off duty shall constitute good
29 cause to suspend or revoke that person's right to carry firearms
30 off duty.

31 (e) The Department of Corrections shall allow reasonable access
32 to its ranges for officers and designees of either department to
33 qualify to carry concealable firearms off duty. The time spent on
34 the range for purposes of meeting the qualification requirements
35 shall be the person's own time during the person's off-duty hours.

36 (f) The Director of Corrections shall promulgate regulations
37 consistent with this section.

38 (g) "High-risk transportation details" and "high-risk escape
39 details" as used in this section shall be determined by the Director
40 of the Youth Authority, or his or her designee. The director, or his

1 or her designee, shall consider at least the following in determining
2 “high-risk transportation details” and “high-risk escape details”:
3 protection of the public, protection of officers, flight risk, and
4 violence potential of the wards.

5 (h) “Transportation detail” as used in this section shall include
6 transportation of wards outside the facility, including, but not
7 limited to, court appearances, medical trips, and interfacility
8 transfers.

9 (i) *This section shall remain in effect only until January 1, 2012,*
10 *and as of that date is repealed, unless a later enacted statute, that*
11 *is enacted before January 1, 2012, deletes or extends that date.*

12 SEC. 25.5. *Section 830.5 of the Penal Code, as amended by*
13 *Section 44 of Chapter 1124 of the Statutes of 2002, is amended to*
14 *read:*

15 830.5. The following persons are peace officers whose authority
16 extends to any place in the state while engaged in the performance
17 of the duties of their respective employment and for the purpose
18 of carrying out the primary function of their employment or as
19 required under Sections 8597, 8598, and 8617 of the Government
20 Code. Except as specified in this section, these peace officers may
21 carry firearms only if authorized and under those terms and
22 conditions specified by their employing agency:

23 (a) A parole officer of the Department of Corrections or the
24 Department of the Youth Authority, probation officer, deputy
25 probation officer, or a board coordinating parole agent employed
26 by the Youthful Offender Parole Board. Except as otherwise
27 provided in this subdivision, the authority of these parole or
28 probation officers shall extend only as follows:

29 (1) To conditions of parole~~—or—of~~, probation, *or postrelease*
30 *community supervision* by any person in this state on parole~~—or—~~, *or*
31 *postrelease community supervision*. probation.

32 (2) To the escape of any inmate or ward from a state or local
33 institution.

34 (3) To the transportation of persons on parole~~—or—~~, probation, *or*
35 *postrelease community supervision*.

36 (4) To violations of any penal provisions of law which are
37 discovered while performing the usual or authorized duties of his
38 or her employment.

39 (5) To the rendering of mutual aid to any other law enforcement
40 agency.

1 For the purposes of this subdivision, “parole agent” shall have
2 the same meaning as parole officer of the Department of
3 Corrections or of the Department of the Youth Authority.

4 Any parole officer of the Department of Corrections, the
5 Department of the Youth Authority, or the Youthful Offender
6 Parole Board is authorized to carry firearms, but only as determined
7 by the director on a case-by-case or unit-by-unit basis and only
8 under those terms and conditions specified by the director or
9 chairperson. The Department of the Youth Authority shall develop
10 a policy for arming peace officers of the Department of the Youth
11 Authority who comprise “high-risk transportation details” or
12 “high-risk escape details” no later than June 30, 1995. This policy
13 shall be implemented no later than December 31, 1995.

14 The Department of the Youth Authority shall train and arm those
15 peace officers who comprise tactical teams at each facility for use
16 during “high-risk escape details.”

17 (b) A correctional officer employed by the Department of
18 Corrections or any employee of the Department of the Youth
19 Authority having custody of wards or ~~the Inspector General of the~~
20 ~~Youth and Adult Correctional Agency or any internal affairs~~
21 ~~investigator under the authority of the Inspector General or any~~
22 employee of the Department of Corrections designated by the
23 Director of Corrections or any correctional counselor series
24 employee of the Department of Corrections or any medical
25 technical assistant series employee designated by the Director of
26 Corrections or designated by the Director of Corrections and
27 employed by the State Department of Mental Health or employee
28 of the Board of Prison Terms designated by the Secretary of the
29 Youth and Adult Correctional Agency or employee of the
30 Department of the Youth Authority designated by the Director of
31 the Youth Authority or any superintendent, supervisor, or employee
32 having custodial responsibilities in an institution operated by a
33 probation department, or any transportation officer of a probation
34 department.

35 (c) The following persons may carry a firearm while not on
36 duty: a parole officer of the Department of Corrections or the
37 Department of the Youth Authority, a correctional officer or
38 correctional counselor employed by the Department of Corrections
39 or any employee of the Department of the Youth Authority having
40 custody of wards or any employee of the Department of Corrections

1 designated by the Director of Corrections. A parole officer of the
2 Youthful Offender Parole Board may carry a firearm while not on
3 duty only when so authorized by the chairperson of the board and
4 only under the terms and conditions specified by the chairperson.
5 Nothing in this section shall be interpreted to require licensure
6 pursuant to Section 12025. The director or chairperson may deny,
7 suspend, or revoke for good cause a person's right to carry a
8 firearm under this subdivision. That person shall, upon request,
9 receive a hearing, as provided for in the negotiated grievance
10 procedure between the exclusive employee representative and the
11 Department of Corrections, the Department of the Youth Authority,
12 or the Youthful Offender Parole Board, to review the director's or
13 the chairperson's decision.

14 (d) Persons permitted to carry firearms pursuant to this section,
15 either on or off duty, shall meet the training requirements of Section
16 832 and shall qualify with the firearm at least quarterly. It is the
17 responsibility of the individual officer or designee to maintain his
18 or her eligibility to carry concealable firearms off duty. Failure to
19 maintain quarterly qualifications by an officer or designee with
20 any concealable firearms carried off duty shall constitute good
21 cause to suspend or revoke that person's right to carry firearms
22 off duty.

23 (e) The Department of Corrections shall allow reasonable access
24 to its ranges for officers and designees of either department to
25 qualify to carry concealable firearms off duty. The time spent on
26 the range for purposes of meeting the qualification requirements
27 shall be the person's own time during the person's off-duty hours.

28 (f) The Director of Corrections shall promulgate regulations
29 consistent with this section.

30 (g) "High-risk transportation details" and "high-risk escape
31 details" as used in this section shall be determined by the Director
32 of the Youth Authority, or his or her designee. The director, or his
33 or her designee, shall consider at least the following in determining
34 "high-risk transportation details" and "high-risk escape details":
35 protection of the public, protection of officers, flight risk, and
36 violence potential of the wards.

37 (h) "Transportation detail" as used in this section shall include
38 transportation of wards outside the facility, including, but not
39 limited to, court appearances, medical trips, and interfacility
40 transfers.

1 (i) *This section shall remain in effect only until January 1, 2012,*
2 *and as of that date is repealed, unless a later enacted statute, that*
3 *is enacted before January 1, 2012, deletes or extends that date.*

4 SEC. 26. *Section 830.5 of the Penal Code, as amended by*
5 *Section 6 of Chapter 10 of the Statutes of 2011, is amended to*
6 *read:*

7 830.5. The following persons are peace officers whose authority
8 extends to any place in the state while engaged in the performance
9 of the duties of their respective employment and for the purpose
10 of carrying out the primary function of their employment or as
11 required under Sections 8597, 8598, and 8617 of the Government
12 Code. Except as specified in this section, these peace officers may
13 carry firearms only if authorized and under those terms and
14 conditions specified by their employing agency:

15 (a) A parole officer of the Department of Corrections and
16 Rehabilitation, or the Department of Corrections and
17 Rehabilitation, Division of Juvenile Parole Operations, probation
18 officer, deputy probation officer, or a board coordinating parole
19 agent employed by the Juvenile Parole Board. Except as otherwise
20 provided in this subdivision, the authority of these parole or
21 probation officers shall extend only as follows:

22 (1) To conditions of parole~~—or—of~~, probation, *or postrelease*
23 *community supervision* by any person in this state on parole~~—or~~,
24 probation, *or postrelease community supervision*.

25 (2) To the escape of any inmate or ward from a state or local
26 institution.

27 (3) To the transportation of persons on parole~~—or~~, probation, *or*
28 *postrelease community supervision*.

29 (4) To violations of any penal provisions of law which are
30 discovered while performing the usual or authorized duties of his
31 or her employment.

32 (5) (A) To the rendering of mutual aid to any other law
33 enforcement agency.

34 (B) For the purposes of this subdivision, “parole agent” shall
35 have the same meaning as parole officer of the Department of
36 Corrections and Rehabilitation or of the Department of Corrections
37 and Rehabilitation, Division of Juvenile Justice.

38 (C) Any parole officer of the Department of Corrections and
39 Rehabilitation, or the Department of Corrections and
40 Rehabilitation, Division of Juvenile Parole Operations, is

1 authorized to carry firearms, but only as determined by the director
2 on a case-by-case or unit-by-unit basis and only under those terms
3 and conditions specified by the director or chairperson. The
4 Department of Corrections and Rehabilitation, Division of Juvenile
5 Justice, shall develop a policy for arming peace officers of the
6 Department of Corrections and Rehabilitation, Division of Juvenile
7 Justice, who comprise “high-risk transportation details” or
8 “high-risk escape details” no later than June 30, 1995. This policy
9 shall be implemented no later than December 31, 1995.

10 (D) The Department of Corrections and Rehabilitation, Division
11 of Juvenile Justice, shall train and arm those peace officers who
12 comprise tactical teams at each facility for use during “high-risk
13 escape details.”

14 (b) A correctional officer employed by the Department of
15 Corrections and Rehabilitation, or of the Department of Corrections
16 and Rehabilitation, Division of Juvenile Justice, having custody
17 of wards or any employee of the Department of Corrections and
18 Rehabilitation designated by the secretary or any correctional
19 counselor series employee of the Department of Corrections and
20 Rehabilitation or any medical technical assistant series employee
21 designated by the secretary or designated by the secretary and
22 employed by the State Department of Mental Health or any
23 employee of the Board of Parole Hearings designated by the
24 secretary or employee of the Department of Corrections and
25 Rehabilitation, Division of Juvenile Justice, designated by the
26 secretary or any superintendent, supervisor, or employee having
27 custodial responsibilities in an institution operated by a probation
28 department, or any transportation officer of a probation department.

29 (c) The following persons may carry a firearm while not on
30 duty: a parole officer of the Department of Corrections and
31 Rehabilitation, or the Department of Corrections and
32 Rehabilitation, Division of Juvenile Justice, a correctional officer
33 or correctional counselor employed by the Department of
34 Corrections and Rehabilitation, or an employee of the Department
35 of Corrections and Rehabilitation, Division of Juvenile Justice,
36 having custody of wards or any employee of the Department of
37 Corrections and Rehabilitation designated by the secretary. A
38 parole officer of the Juvenile Parole Board may carry a firearm
39 while not on duty only when so authorized by the chairperson of
40 the board and only under the terms and conditions specified by

1 the chairperson. Nothing in this section shall be interpreted to
2 require licensure pursuant to Section 25400. The director or
3 chairperson may deny, suspend, or revoke for good cause a
4 person's right to carry a firearm under this subdivision. That person
5 shall, upon request, receive a hearing, as provided for in the
6 negotiated grievance procedure between the exclusive employee
7 representative and the Department of Corrections and
8 Rehabilitation, Division of Juvenile Justice, or the Juvenile Parole
9 Board, to review the director's or the chairperson's decision.

10 (d) Persons permitted to carry firearms pursuant to this section,
11 either on or off duty, shall meet the training requirements of Section
12 832 and shall qualify with the firearm at least quarterly. It is the
13 responsibility of the individual officer or designee to maintain his
14 or her eligibility to carry concealable firearms off duty. Failure to
15 maintain quarterly qualifications by an officer or designee with
16 any concealable firearms carried off duty shall constitute good
17 cause to suspend or revoke that person's right to carry firearms
18 off duty.

19 (e) The Department of Corrections and Rehabilitation shall
20 allow reasonable access to its ranges for officers and designees of
21 either department to qualify to carry concealable firearms off duty.
22 The time spent on the range for purposes of meeting the
23 qualification requirements shall be the person's own time during
24 the person's off-duty hours.

25 (f) The secretary shall promulgate regulations consistent with
26 this section.

27 (g) "High-risk transportation details" and "high-risk escape
28 details" as used in this section shall be determined by the secretary,
29 or his or her designee. The secretary, or his or her designee, shall
30 consider at least the following in determining "high-risk
31 transportation details" and "high-risk escape details": protection
32 of the public, protection of officers, flight risk, and violence
33 potential of the wards.

34 (h) "Transportation detail" as used in this section shall include
35 transportation of wards outside the facility, including, but not
36 limited to, court appearances, medical trips, and interfacility
37 transfers.

38 *This section is operative January 1, 2012.*

1 *SEC. 27. Section 1170 of the Penal Code, as amended by*
2 *Section 450 of Chapter 15 of the Statutes of 2011, is amended to*
3 *read:*

4 1170. (a) (1) The Legislature finds and declares that the
5 purpose of imprisonment for crime is punishment. This purpose
6 is best served by terms proportionate to the seriousness of the
7 offense with provision for uniformity in the sentences of offenders
8 committing the same offense under similar circumstances. The
9 Legislature further finds and declares that the elimination of
10 disparity and the provision of uniformity of sentences can best be
11 achieved by determinate sentences fixed by statute in proportion
12 to the seriousness of the offense as determined by the Legislature
13 to be imposed by the court with specified discretion.

14 (2) Notwithstanding paragraph (1), the Legislature further finds
15 and declares that programs should be available for inmates,
16 including, but not limited to, educational programs, that are
17 designed to prepare nonviolent felony offenders for successful
18 reentry into the community. The Legislature encourages the
19 development of policies and programs designed to educate and
20 rehabilitate nonviolent felony offenders. In implementing this
21 section, the Department of Corrections and Rehabilitation is
22 encouraged to give priority enrollment in programs to promote
23 successful return to the community to an inmate with a short
24 remaining term of commitment and a release date that would allow
25 him or her adequate time to complete the program.

26 (3) In any case in which the punishment prescribed by statute
27 for a person convicted of a public offense is a term of imprisonment
28 in the state prison of any specification of three time periods, the
29 court shall sentence the defendant to one of the terms of
30 imprisonment specified unless the convicted person is given any
31 other disposition provided by law, including a fine, jail, probation,
32 or the suspension of imposition or execution of sentence or is
33 sentenced pursuant to subdivision (b) of Section 1168 because he
34 or she had committed his or her crime prior to July 1, 1977. In
35 sentencing the convicted person, the court shall apply the
36 sentencing rules of the Judicial Council. The court, unless it
37 determines that there are circumstances in mitigation of the
38 punishment prescribed, shall also impose any other term that it is
39 required by law to impose as an additional term. Nothing in this
40 article shall affect any provision of law that imposes the death

1 penalty, that authorizes or restricts the granting of probation or
2 suspending the execution or imposition of sentence, or expressly
3 provides for imprisonment in the state prison for life. In any case
4 in which the amount of preimprisonment credit under Section
5 2900.5 or any other provision of law is equal to or exceeds any
6 sentence imposed pursuant to this chapter, the entire sentence shall
7 be deemed to have been served and the defendant shall not be
8 actually delivered to the custody of the secretary. The court shall
9 advise the defendant that he or she shall serve a period of parole
10 and order the defendant to report to the parole office closest to the
11 defendant's last legal residence, unless the in-custody credits equal
12 the total sentence, including both confinement time and the period
13 of parole. The sentence shall be deemed a separate prior prison
14 term under Section 667.5, and a copy of the judgment and other
15 necessary documentation shall be forwarded to the secretary.

16 (b) When a judgment of imprisonment is to be imposed and the
17 statute specifies three possible terms, the choice of the appropriate
18 term shall rest within the sound discretion of the court. At least
19 four days prior to the time set for imposition of judgment, either
20 party or the victim, or the family of the victim if the victim is
21 deceased, may submit a statement in aggravation or mitigation. In
22 determining the appropriate term, the court may consider the record
23 in the case, the probation officer's report, other reports, including
24 reports received pursuant to Section 1203.03, and statements in
25 aggravation or mitigation submitted by the prosecution, the
26 defendant, or the victim, or the family of the victim if the victim
27 is deceased, and any further evidence introduced at the sentencing
28 hearing. The court shall select the term which, in the court's
29 discretion, best serves the interests of justice. The court shall set
30 forth on the record the reasons for imposing the term selected and
31 the court may not impose an upper term by using the fact of any
32 enhancement upon which sentence is imposed under any provision
33 of law. A term of imprisonment shall not be specified if imposition
34 of sentence is suspended.

35 (c) The court shall state the reasons for its sentence choice on
36 the record at the time of sentencing. The court shall also inform
37 the defendant that as part of the sentence after expiration of the
38 term he or she may be on parole for a period as provided in Section
39 3000.

(d) When a defendant subject to this section or subdivision (b) of Section 1168 has been sentenced to be imprisoned in the state prison and has been committed to the custody of the secretary, the court may, within 120 days of the date of commitment on its own motion, or at any time upon the recommendation of the secretary or the Board of Parole Hearings, recall the sentence and commitment previously ordered and resentence the defendant in the same manner as if he or she had not previously been sentenced, provided the new sentence, if any, is no greater than the initial sentence. The resentence under this subdivision shall apply the sentencing rules of the Judicial Council so as to eliminate disparity of sentences and to promote uniformity of sentencing. Credit shall be given for time served.

(e) (1) Notwithstanding any other law and consistent with paragraph (1) of subdivision (a), if the secretary or the Board of Parole Hearings or both determine that a prisoner satisfies the criteria set forth in paragraph (2), the secretary or the board may recommend to the court that the prisoner's sentence be recalled.

(2) The court shall have the discretion to resentence or recall if the court finds that the facts described in subparagraphs (A) and (B) or subparagraphs (B) and (C) exist:

(A) The prisoner is terminally ill with an incurable condition caused by an illness or disease that would produce death within six months, as determined by a physician employed by the department.

(B) The conditions under which the prisoner would be released or receive treatment do not pose a threat to public safety.

(C) The prisoner is permanently medically incapacitated with a medical condition that renders him or her permanently unable to perform activities of basic daily living, and results in the prisoner requiring 24-hour total care, including, but not limited to, coma, persistent vegetative state, brain death, ventilator-dependency, loss of control of muscular or neurological function, and that incapacitation did not exist at the time of the original sentencing.

The Board of Parole Hearings shall make findings pursuant to this subdivision before making a recommendation for resentence or recall to the court. This subdivision does not apply to a prisoner sentenced to death or a term of life without the possibility of parole.

1 (3) Within 10 days of receipt of a positive recommendation by
2 the secretary or the board, the court shall hold a hearing to consider
3 whether the prisoner's sentence should be recalled.

4 (4) Any physician employed by the department who determines
5 that a prisoner has six months or less to live shall notify the chief
6 medical officer of the prognosis. If the chief medical officer
7 concurs with the prognosis, he or she shall notify the warden.
8 Within 48 hours of receiving notification, the warden or the
9 warden's representative shall notify the prisoner of the recall and
10 resentencing procedures, and shall arrange for the prisoner to
11 designate a family member or other outside agent to be notified
12 as to the prisoner's medical condition and prognosis, and as to the
13 recall and resentencing procedures. If the inmate is deemed
14 mentally unfit, the warden or the warden's representative shall
15 contact the inmate's emergency contact and provide the information
16 described in paragraph (2).

17 (5) The warden or the warden's representative shall provide the
18 prisoner and his or her family member, agent, or emergency
19 contact, as described in paragraph (4), updated information
20 throughout the recall and resentencing process with regard to the
21 prisoner's medical condition and the status of the prisoner's recall
22 and resentencing proceedings.

23 (6) Notwithstanding any other provisions of this section, the
24 prisoner or his or her family member or designee may
25 independently request consideration for recall and resentencing
26 by contacting the chief medical officer at the prison or the
27 secretary. Upon receipt of the request, the chief medical officer
28 and the warden or the warden's representative shall follow the
29 procedures described in paragraph (4). If the secretary determines
30 that the prisoner satisfies the criteria set forth in paragraph (2), the
31 secretary or board may recommend to the court that the prisoner's
32 sentence be recalled. The secretary shall submit a recommendation
33 for release within 30 days in the case of inmates sentenced to
34 determinate terms and, in the case of inmates sentenced to
35 indeterminate terms, the secretary shall make a recommendation
36 to the Board of Parole Hearings with respect to the inmates who
37 have applied under this section. The board shall consider this
38 information and make an independent judgment pursuant to
39 paragraph (2) and make findings related thereto before rejecting

1 the request or making a recommendation to the court. This action
2 shall be taken at the next lawfully noticed board meeting.

3 (7) Any recommendation for recall submitted to the court by
4 the secretary or the Board of Parole Hearings shall include one or
5 more medical evaluations, a postrelease plan, and findings pursuant
6 to paragraph (2).

7 (8) If possible, the matter shall be heard before the same judge
8 of the court who sentenced the prisoner.

9 (9) If the court grants the recall and resentencing application,
10 the prisoner shall be released by the department within 48 hours
11 of receipt of the court's order, unless a longer time period is agreed
12 to by the inmate. At the time of release, the warden or the warden's
13 representative shall ensure that the prisoner has each of the
14 following in his or her possession: a discharge medical summary,
15 full medical records, state identification, parole medications, and
16 all property belonging to the prisoner. After discharge, any
17 additional records shall be sent to the prisoner's forwarding
18 address.

19 (10) The secretary shall issue a directive to medical and
20 correctional staff employed by the department that details the
21 guidelines and procedures for initiating a recall and resentencing
22 procedure. The directive shall clearly state that any prisoner who
23 is given a prognosis of six months or less to live is eligible for
24 recall and resentencing consideration, and that recall and
25 resentencing procedures shall be initiated upon that prognosis.

26 ~~(f) Any sentence imposed under this article shall be subject to~~
27 ~~the provisions of Sections 3000 and 3057 and any other applicable~~
28 ~~provisions of law.~~

29 *(f) Notwithstanding any other provision of this section, for*
30 *purposes of paragraph (3) of subdivision (h), any allegation that*
31 *a defendant is eligible for state prison due to a prior or current*
32 *conviction, sentence enhancement, or because he or she is required*
33 *to register as a sex offender shall not be subject to dismissal*
34 *pursuant to Section 1385.*

35 (g) A sentence to state prison for a determinate term for which
36 only one term is specified, is a sentence to state prison under this
37 section.

38 (h) (1) Except as provided in paragraph (3), a felony punishable
39 pursuant to this subdivision where the term is not specified in the

underlying offense shall be punishable by a term of imprisonment in a county jail for 16 months, or two or three years.

(2) Except as provided in paragraph (3), a felony punishable pursuant to this subdivision shall be punishable by imprisonment in a county jail for the term described in the underlying offense.

(3) Notwithstanding paragraphs (1) and (2), where the defendant has a prior or current felony conviction for a serious felony described in subdivision (c) of Section 1192.7, a violent felony described in subdivision (c) of Section 667.5, is required to register as a sex offender pursuant to Chapter 5.5 (commencing with Section 290) of Title 9 of Part 1, or is convicted of a crime and as part of the sentence an enhancement pursuant to Section 186.11 is imposed, an executed sentence for a felony punishable pursuant to this subdivision shall be served in state prison.

(4) Nothing in this subdivision shall be construed to prevent other dispositions authorized by law, including pretrial diversion, deferred entry of judgment, or an order granting probation pursuant to Section 1203.1.

(5) *A judge, when imposing a sentence pursuant to this section, may order the defendant to serve a term in a county jail for a period not to exceed the maximum possible term of confinement or may impose a sentence that includes a period of county jail time and a period of mandatory probation not to exceed the maximum possible sentence.*

~~(5)~~

(6) The sentencing changes made by the act that added this subdivision shall be applied prospectively to any person sentenced on or after ~~July~~ *October* 1, 2011.

(i) This section shall remain in effect only until January 1, 2012, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 28. Section 1170 of the Penal Code, as amended by Section 451 of Chapter 15 of the Statutes of 2011, is amended to read:

1170. (a) (1) The Legislature finds and declares that the purpose of imprisonment for crime is punishment. This purpose is best served by terms proportionate to the seriousness of the offense with provision for uniformity in the sentences of offenders committing the same offense under similar circumstances. The Legislature further finds and declares that the elimination of

1 disparity and the provision of uniformity of sentences can best be
2 achieved by determinate sentences fixed by statute in proportion
3 to the seriousness of the offense as determined by the Legislature
4 to be imposed by the court with specified discretion.

5 (2) Notwithstanding paragraph (1), the Legislature further finds
6 and declares that programs should be available for inmates,
7 including, but not limited to, educational programs, that are
8 designed to prepare nonviolent felony offenders for successful
9 reentry into the community. The Legislature encourages the
10 development of policies and programs designed to educate and
11 rehabilitate nonviolent felony offenders. In implementing this
12 section, the Department of Corrections and Rehabilitation is
13 encouraged to give priority enrollment in programs to promote
14 successful return to the community to an inmate with a short
15 remaining term of commitment and a release date that would allow
16 him or her adequate time to complete the program.

17 (3) In any case in which the punishment prescribed by statute
18 for a person convicted of a public offense is a term of imprisonment
19 in the state prison of any specification of three time periods, the
20 court shall sentence the defendant to one of the terms of
21 imprisonment specified unless the convicted person is given any
22 other disposition provided by law, including a fine, jail, probation,
23 or the suspension of imposition or execution of sentence or is
24 sentenced pursuant to subdivision (b) of Section 1168 because he
25 or she had committed his or her crime prior to July 1, 1977. In
26 sentencing the convicted person, the court shall apply the
27 sentencing rules of the Judicial Council. The court, unless it
28 determines that there are circumstances in mitigation of the
29 punishment prescribed, shall also impose any other term that it is
30 required by law to impose as an additional term. Nothing in this
31 article shall affect any provision of law that imposes the death
32 penalty, that authorizes or restricts the granting of probation or
33 suspending the execution or imposition of sentence, or expressly
34 provides for imprisonment in the state prison for life. In any case
35 in which the amount of preimprisonment credit under Section
36 2900.5 or any other provision of law is equal to or exceeds any
37 sentence imposed pursuant to this chapter, the entire sentence shall
38 be deemed to have been served and the defendant shall not be
39 actually delivered to the custody of the secretary. The court shall
40 advise the defendant that he or she shall serve a period of parole

1 and order the defendant to report to the parole office closest to the
2 defendant's last legal residence, unless the in-custody credits equal
3 the total sentence, including both confinement time and the period
4 of parole. The sentence shall be deemed a separate prior prison
5 term under Section 667.5, and a copy of the judgment and other
6 necessary documentation shall be forwarded to the secretary.

7 (b) When a judgment of imprisonment is to be imposed and the
8 statute specifies three possible terms, the court shall order
9 imposition of the middle term, unless there are circumstances in
10 aggravation or mitigation of the crime. At least four days prior to
11 the time set for imposition of judgment, either party or the victim,
12 or the family of the victim if the victim is deceased, may submit
13 a statement in aggravation or mitigation to dispute facts in the
14 record or the probation officer's report, or to present additional
15 facts. In determining whether there are circumstances that justify
16 imposition of the upper or lower term, the court may consider the
17 record in the case, the probation officer's report, other reports,
18 including reports received pursuant to Section 1203.03, and
19 statements in aggravation or mitigation submitted by the
20 prosecution, the defendant, or the victim, or the family of the victim
21 if the victim is deceased, and any further evidence introduced at
22 the sentencing hearing. The court shall set forth on the record the
23 facts and reasons for imposing the upper or lower term. The court
24 may not impose an upper term by using the fact of any
25 enhancement upon which sentence is imposed under any provision
26 of law. A term of imprisonment shall not be specified if imposition
27 of sentence is suspended.

28 (c) The court shall state the reasons for its sentence choice on
29 the record at the time of sentencing. The court shall also inform
30 the defendant that as part of the sentence after expiration of the
31 term he or she may be on parole for a period as provided in Section
32 3000.

33 (d) When a defendant subject to this section or subdivision (b)
34 of Section 1168 has been sentenced to be imprisoned in the state
35 prison and has been committed to the custody of the secretary, the
36 court may, within 120 days of the date of commitment on its own
37 motion, or at any time upon the recommendation of the secretary
38 or the Board of Parole Hearings, recall the sentence and
39 commitment previously ordered and resentence the defendant in
40 the same manner as if he or she had not previously been sentenced,

1 provided the new sentence, if any, is no greater than the initial
2 sentence. The resentence under this subdivision shall apply the
3 sentencing rules of the Judicial Council so as to eliminate disparity
4 of sentences and to promote uniformity of sentencing. Credit shall
5 be given for time served.

6 (e) (1) Notwithstanding any other law and consistent with
7 paragraph (1) of subdivision (a), if the secretary or the Board of
8 Parole Hearings or both determine that a prisoner satisfies the
9 criteria set forth in paragraph (2), the secretary or the board may
10 recommend to the court that the prisoner's sentence be recalled.

11 (2) The court shall have the discretion to resentence or recall if
12 the court finds that the facts described in subparagraphs (A) and
13 (B) or subparagraphs (B) and (C) exist:

14 (A) The prisoner is terminally ill with an incurable condition
15 caused by an illness or disease that would produce death within
16 six months, as determined by a physician employed by the
17 department.

18 (B) The conditions under which the prisoner would be released
19 or receive treatment do not pose a threat to public safety.

20 (C) The prisoner is permanently medically incapacitated with
21 a medical condition that renders him or her permanently unable
22 to perform activities of basic daily living, and results in the prisoner
23 requiring 24-hour total care, including, but not limited to, coma,
24 persistent vegetative state, brain death, ventilator-dependency, loss
25 of control of muscular or neurological function, and that
26 incapacitation did not exist at the time of the original sentencing.

27 The Board of Parole Hearings shall make findings pursuant to
28 this subdivision before making a recommendation for resentence
29 or recall to the court. This subdivision does not apply to a prisoner
30 sentenced to death or a term of life without the possibility of parole.

31 (3) Within 10 days of receipt of a positive recommendation by
32 the secretary or the board, the court shall hold a hearing to consider
33 whether the prisoner's sentence should be recalled.

34 (4) Any physician employed by the department who determines
35 that a prisoner has six months or less to live shall notify the chief
36 medical officer of the prognosis. If the chief medical officer
37 concurs with the prognosis, he or she shall notify the warden.
38 Within 48 hours of receiving notification, the warden or the
39 warden's representative shall notify the prisoner of the recall and
40 resentencing procedures, and shall arrange for the prisoner to

1 designate a family member or other outside agent to be notified
2 as to the prisoner's medical condition and prognosis, and as to the
3 recall and resentencing procedures. If the inmate is deemed
4 mentally unfit, the warden or the warden's representative shall
5 contact the inmate's emergency contact and provide the information
6 described in paragraph (2).

7 (5) The warden or the warden's representative shall provide the
8 prisoner and his or her family member, agent, or emergency
9 contact, as described in paragraph (4), updated information
10 throughout the recall and resentencing process with regard to the
11 prisoner's medical condition and the status of the prisoner's recall
12 and resentencing proceedings.

13 (6) Notwithstanding any other provisions of this section, the
14 prisoner or his or her family member or designee may
15 independently request consideration for recall and resentencing
16 by contacting the chief medical officer at the prison or the
17 secretary. Upon receipt of the request, the chief medical officer
18 and the warden or the warden's representative shall follow the
19 procedures described in paragraph (4). If the secretary determines
20 that the prisoner satisfies the criteria set forth in paragraph (2), the
21 secretary or board may recommend to the court that the prisoner's
22 sentence be recalled. The secretary shall submit a recommendation
23 for release within 30 days in the case of inmates sentenced to
24 determinate terms and, in the case of inmates sentenced to
25 indeterminate terms, the secretary shall make a recommendation
26 to the Board of Parole Hearings with respect to the inmates who
27 have applied under this section. The board shall consider this
28 information and make an independent judgment pursuant to
29 paragraph (2) and make findings related thereto before rejecting
30 the request or making a recommendation to the court. This action
31 shall be taken at the next lawfully noticed board meeting.

32 (7) Any recommendation for recall submitted to the court by
33 the secretary or the Board of Parole Hearings shall include one or
34 more medical evaluations, a postrelease plan, and findings pursuant
35 to paragraph (2).

36 (8) If possible, the matter shall be heard before the same judge
37 of the court who sentenced the prisoner.

38 (9) If the court grants the recall and resentencing application,
39 the prisoner shall be released by the department within 48 hours
40 of receipt of the court's order, unless a longer time period is agreed

1 to by the inmate. At the time of release, the warden or the warden's
2 representative shall ensure that the prisoner has each of the
3 following in his or her possession: a discharge medical summary,
4 full medical records, state identification, parole medications, and
5 all property belonging to the prisoner. After discharge, any
6 additional records shall be sent to the prisoner's forwarding
7 address.

8 (10) The secretary shall issue a directive to medical and
9 correctional staff employed by the department that details the
10 guidelines and procedures for initiating a recall and resentencing
11 procedure. The directive shall clearly state that any prisoner who
12 is given a prognosis of six months or less to live is eligible for
13 recall and resentencing consideration, and that recall and
14 resentencing procedures shall be initiated upon that prognosis.

15 ~~(f) Any sentence imposed under this article shall be subject to~~
16 ~~the provisions of Sections 3000 and 3057 and any other applicable~~
17 ~~provisions of law.~~

18 *(f) Notwithstanding any other provision of this section, for*
19 *purposes of paragraph (3) of subdivision (h), any allegation that*
20 *a defendant is eligible for state prison due to a prior or current*
21 *conviction, sentence enhancement, or because he or she is required*
22 *to register as a sex offender shall not be subject to dismissal*
23 *pursuant to Section 1385.*

24 (g) A sentence to state prison for a determinate term for which
25 only one term is specified, is a sentence to state prison under this
26 section.

27 (h) (1) Except as provided in paragraph (3), a felony punishable
28 pursuant to this subdivision where the term is not specified in the
29 underlying offense shall be punishable by a term of imprisonment
30 in a county jail for 16 months, or two or three years.

31 (2) Except as provided in paragraph (3), a felony punishable
32 pursuant to this subdivision shall be punishable by imprisonment
33 in a county jail for the term described in the underlying offense.

34 (3) Notwithstanding paragraphs (1) and (2), where the defendant
35 has a prior or current felony conviction for a serious felony
36 described in subdivision (c) of Section 1192.7, a violent felony
37 described in subdivision (c) of Section 667.5, is required to register
38 as a sex offender pursuant to Chapter 5.5 (commencing with
39 Section 290) of Title 9 of Part 1, or is convicted of a crime and as
40 part of the sentence an enhancement pursuant to Section 186.11

1 is imposed, an executed sentence for a felony punishable pursuant
2 to this subdivision shall be served in state prison.

3 (4) Nothing in this subdivision shall be construed to prevent
4 other dispositions authorized by law, including pretrial diversion,
5 deferred entry of judgment, or an order granting probation pursuant
6 to Section 1203.1.

7 (5) *A judge, when imposing a sentence pursuant to this section,*
8 *may order the defendant to serve a term in a county jail for a*
9 *period not to exceed the maximum possible term of confinement*
10 *or may impose a sentence which includes a period of county jail*
11 *time and a period of mandatory probation not to exceed the*
12 *maximum possible sentence.*

13 ~~(5)~~

14 (6) The sentencing changes made by the act that added this
15 subdivision shall be applied prospectively to any person sentenced
16 on or after ~~July~~ *October 1, 2011.*

17 (i) This section shall become operative on January 1, 2012.

18 *SEC. 29. Section 1170.1 of the Penal Code, as amended by*
19 *Section 7 of Chapter 256 of the Statutes of 2010, is amended to*
20 *read:*

21 1170.1. (a) Except as otherwise provided by law, and subject
22 to Section 654, when any person is convicted of two or more
23 felonies, whether in the same proceeding or court or in different
24 proceedings or courts, and whether by judgment rendered by the
25 same or by a different court, and a consecutive term of
26 imprisonment is imposed under Sections 669 and 1170, the
27 aggregate term of imprisonment for all these convictions shall be
28 the sum of the principal term, the subordinate term, and any
29 additional term imposed for applicable enhancements for prior
30 convictions, prior prison terms, and Section 12022.1. The principal
31 term shall consist of the greatest term of imprisonment imposed
32 by the court for any of the crimes, including any term imposed for
33 applicable specific enhancements. The subordinate term for each
34 consecutive offense shall consist of one-third of the middle term
35 of imprisonment prescribed for each other felony conviction for
36 which a consecutive term of imprisonment is imposed, and shall
37 include one-third of the term imposed for any specific
38 enhancements applicable to those subordinate offenses. *Whenever*
39 *a court imposes a term of imprisonment in the state prison, whether*
40 *the term is a principal or subordinate term, the aggregate term*

1 *shall be served in the state prison, regardless as to whether or not*
2 *one of the terms specifies imprisonment in the county jail pursuant*
3 *to subdivision (h) of Section 1170.*

4 (b) If a person is convicted of two or more violations of
5 kidnapping, as defined in Section 207, involving separate victims,
6 the subordinate term for each consecutive offense of kidnapping
7 shall consist of the full middle term and shall include the full term
8 imposed for specific enhancements applicable to those subordinate
9 offenses.

10 (c) In the case of any person convicted of one or more felonies
11 committed while the person is confined in a state prison or is
12 subject to reimprisonment for escape from custody and the law
13 either requires the terms to be served consecutively or the court
14 imposes consecutive terms, the term of imprisonment for all the
15 convictions that the person is required to serve consecutively shall
16 commence from the time the person would otherwise have been
17 released from prison. If the new offenses are consecutive with each
18 other, the principal and subordinate terms shall be calculated as
19 provided in subdivision (a). This subdivision shall be applicable
20 in cases of convictions of more than one offense in the same or
21 different proceedings.

22 (d) When the court imposes a prison sentence for a felony
23 pursuant to Section 1170 or subdivision (b) of Section 1168, the
24 court shall also impose, in addition and consecutive to the offense
25 of which the person has been convicted, the additional terms
26 provided for any applicable enhancements. If an enhancement is
27 punishable by one of three terms, the court shall, in its discretion,
28 impose the term that best serves the interest of justice, and state
29 the reasons for its sentence choice on the record at the time of
30 sentencing. The court shall also impose any other additional term
31 that the court determines in its discretion or as required by law
32 shall run consecutive to the term imposed under Section 1170 or
33 subdivision (b) of Section 1168. In considering the imposition of
34 the additional term, the court shall apply the sentencing rules of
35 the Judicial Council.

36 (e) All enhancements shall be alleged in the accusatory pleading
37 and either admitted by the defendant in open court or found to be
38 true by the trier of fact.

39 (f) When two or more enhancements may be imposed for being
40 armed with or using a dangerous or deadly weapon or a firearm

1 in the commission of a single offense, only the greatest of those
2 enhancements shall be imposed for that offense. This subdivision
3 shall not limit the imposition of any other enhancements applicable
4 to that offense, including an enhancement for the infliction of great
5 bodily injury.

6 (g) When two or more enhancements may be imposed for the
7 infliction of great bodily injury on the same victim in the
8 commission of a single offense, only the greatest of those
9 enhancements shall be imposed for that offense. This subdivision
10 shall not limit the imposition of any other enhancements applicable
11 to that offense, including an enhancement for being armed with
12 or using a dangerous or deadly weapon or a firearm.

13 (h) For any violation of an offense specified in Section 667.6,
14 the number of enhancements that may be imposed shall not be
15 limited, regardless of whether the enhancements are pursuant to
16 this section, Section 667.6, or some other provision of law. Each
17 of the enhancements shall be a full and separately served term.

18 (i) This section shall remain in effect only until January 1, 2012,
19 and as of that date is repealed, unless a later enacted statute, that
20 is enacted before January 1, 2012, deletes or extends that date.

21 *SEC. 30. Section 1170.1 of the Penal Code, as amended by*
22 *Section 8 of Chapter 256 of the Statutes of 2010, is amended to*
23 *read:*

24 1170.1. (a) Except as otherwise provided by law, and subject
25 to Section 654, when any person is convicted of two or more
26 felonies, whether in the same proceeding or court or in different
27 proceedings or courts, and whether by judgment rendered by the
28 same or by a different court, and a consecutive term of
29 imprisonment is imposed under Sections 669 and 1170, the
30 aggregate term of imprisonment for all these convictions shall be
31 the sum of the principal term, the subordinate term, and any
32 additional term imposed for applicable enhancements for prior
33 convictions, prior prison terms, and Section 12022.1. The principal
34 term shall consist of the greatest term of imprisonment imposed
35 by the court for any of the crimes, including any term imposed for
36 applicable specific enhancements. The subordinate term for each
37 consecutive offense shall consist of one-third of the middle term
38 of imprisonment prescribed for each other felony conviction for
39 which a consecutive term of imprisonment is imposed, and shall
40 include one-third of the term imposed for any specific

1 enhancements applicable to those subordinate offenses. *Whenever*
2 *a court imposes a term of imprisonment in the state prison, whether*
3 *the term is a principal or subordinate term, the aggregate term*
4 *shall be served in the state prison, regardless as to whether or not*
5 *one of the terms specifies imprisonment in the county jail pursuant*
6 *to subdivision (h) of Section 1170.*

7 (b) If a person is convicted of two or more violations of
8 kidnapping, as defined in Section 207, involving separate victims,
9 the subordinate term for each consecutive offense of kidnapping
10 shall consist of the full middle term and shall include the full term
11 imposed for specific enhancements applicable to those subordinate
12 offenses.

13 (c) In the case of any person convicted of one or more felonies
14 committed while the person is confined in a state prison or is
15 subject to reimprisonment for escape from custody and the law
16 either requires the terms to be served consecutively or the court
17 imposes consecutive terms, the term of imprisonment for all the
18 convictions that the person is required to serve consecutively shall
19 commence from the time the person would otherwise have been
20 released from prison. If the new offenses are consecutive with each
21 other, the principal and subordinate terms shall be calculated as
22 provided in subdivision (a). This subdivision shall be applicable
23 in cases of convictions of more than one offense in the same or
24 different proceedings.

25 (d) When the court imposes a prison sentence for a felony
26 pursuant to Section 1170 or subdivision (b) of Section 1168, the
27 court shall also impose, in addition and consecutive to the offense
28 of which the person has been convicted, the additional terms
29 provided for any applicable enhancements. If an enhancement is
30 punishable by one of three terms, the court shall impose the middle
31 term unless there are circumstances in aggravation or mitigation,
32 and state the reasons for its sentence choice, other than the middle
33 term, on the record at the time of sentencing. The court shall also
34 impose any other additional term that the court determines in its
35 discretion or as required by law shall run consecutive to the term
36 imposed under Section 1170 or subdivision (b) of Section 1168.
37 In considering the imposition of the additional term, the court shall
38 apply the sentencing rules of the Judicial Council.

1 (e) All enhancements shall be alleged in the accusatory pleading
2 and either admitted by the defendant in open court or found to be
3 true by the trier of fact.

4 (f) When two or more enhancements may be imposed for being
5 armed with or using a dangerous or deadly weapon or a firearm
6 in the commission of a single offense, only the greatest of those
7 enhancements shall be imposed for that offense. This subdivision
8 shall not limit the imposition of any other enhancements applicable
9 to that offense, including an enhancement for the infliction of great
10 bodily injury.

11 (g) When two or more enhancements may be imposed for the
12 infliction of great bodily injury on the same victim in the
13 commission of a single offense, only the greatest of those
14 enhancements shall be imposed for that offense. This subdivision
15 shall not limit the imposition of any other enhancements applicable
16 to that offense, including an enhancement for being armed with
17 or using a dangerous or deadly weapon or a firearm.

18 (h) For any violation of an offense specified in Section 667.6,
19 the number of enhancements that may be imposed shall not be
20 limited, regardless of whether the enhancements are pursuant to
21 this section, Section 667.6, or some other provision of law. Each
22 of the enhancements shall be a full and separately served term.

23 (i) This section shall become operative on January 1, 2012.

24 *SEC. 31. Section 1203.018 of the Penal Code is amended to*
25 *read:*

26 1203.018. (a) Notwithstanding any other law, this section shall
27 only apply to inmates being held in lieu of bail and on no other
28 basis.

29 (b) Notwithstanding any other law, the board of supervisors of
30 any county may authorize the correctional administrator, as defined
31 in paragraph (1) of subdivision (k), to offer a program under which
32 inmates being held in lieu of bail in a county jail or other county
33 correctional facility may participate in an electronic monitoring
34 program if the conditions specified in subdivision (c) are met.

35 (c) (1) In order to qualify for participation in an electronic
36 monitoring program pursuant to this section, the inmate must be
37 an inmate with no holds or outstanding warrants to whom one of
38 the following circumstances applies:

1 (A) The inmate has been held in custody for at least 30 calendar
2 days from the date of arraignment pending disposition of only
3 misdemeanor charges.

4 (B) The inmate has been held in custody pending disposition
5 of charges for at least 60 calendar days from the date of
6 arraignment.

7 (2) All participants shall be subject to discretionary review for
8 eligibility and compliance by the correctional administrator
9 consistent with this section.

10 (d) The board of supervisors, after consulting with the sheriff
11 and district attorney, may prescribe reasonable rules and regulations
12 under which an electronic monitoring program pursuant to this
13 section may operate. As a condition of participation in the
14 electronic monitoring program, the participant shall give his or
15 her consent in writing to participate and shall agree in writing to
16 comply with the rules and regulations of the program, including,
17 but not limited to, all of the following:

18 (1) The participant shall remain within the interior premises of
19 his or her residence during the hours designated by the correctional
20 administrator.

21 (2) The participant shall admit any person or agent designated
22 by the correctional administrator into his or her residence at any
23 time for purposes of verifying the participant's compliance with
24 the conditions of his or her detention.

25 (3) The electronic monitoring may include global positioning
26 system devices or other supervising devices for the purpose of
27 helping to verify the participant's compliance with the rules and
28 regulations of the electronic monitoring program. The electronic
29 devices shall not be used to eavesdrop or record any conversation,
30 except a conversation between the participant and the person
31 supervising the participant to be used solely for the purposes of
32 voice identification.

33 (4) The correctional administrator in charge of the county
34 correctional facility from which the participant was released may,
35 without further order of the court, immediately retake the person
36 into custody if the electronic monitoring or supervising devices
37 are unable for any reason to properly perform their function at the
38 designated place of home detention, if the person fails to remain
39 within the place of home detention as stipulated in the agreement,
40 if the person willfully fails to pay fees to the provider of electronic

1 home detention services, as stipulated in the agreement, subsequent
2 to the written notification of the participant that the payment has
3 not been received and that return to custody may result, or if the
4 person for any other reason no longer meets the established criteria
5 under this section.

6 (5) A copy of the signed consent to participate and a copy of
7 the agreement to comply with the rules and regulations shall be
8 provided to the participant and a copy shall be retained by the
9 correctional administrator.

10 (e) The rules and regulations and administrative policy of the
11 program shall be reviewed on an annual basis by the county board
12 of supervisors and the correctional administrator. The rules and
13 regulations shall be given to every participant.

14 (f) Whenever the peace officer supervising a participant has
15 reasonable cause to believe that the participant is not complying
16 with the rules or conditions of the program, or that the electronic
17 monitoring devices are unable to function properly in the
18 designated place of confinement, the peace officer may, under
19 general or specific authorization of the correctional administrator,
20 and without a warrant of arrest, retake the person into custody.

21 (g) (1) Nothing in this section shall be construed to require the
22 correctional administrator to allow a person to participate in this
23 program if it appears from the record that the person has not
24 satisfactorily complied with reasonable rules and regulations while
25 in custody. A person shall be eligible for participation in an
26 electronic monitoring program only if the correctional administrator
27 concludes that the person meets the criteria for release established
28 under this section and that the person's participation is consistent
29 with any reasonable rules and regulations prescribed by the board
30 of supervisors or the administrative policy of the correctional
31 administrator.

32 (2) The correctional administrator, or his or her designee, shall
33 have discretionary authority consistent with this section to permit
34 program participation as an alternative to physical custody. All
35 persons approved by the correctional administrator to participate
36 in the electronic monitoring program pursuant to subdivision (c)
37 who are denied participation and all persons removed from program
38 participation shall be notified in writing of the specific reasons for
39 the denial or removal. The notice of denial or removal shall include

1 the participant's appeal rights, as established by program
2 administrative policy.

3 (h) The correctional administrator may permit electronic
4 monitoring program participants to seek and retain employment
5 in the community, attend psychological counseling sessions or
6 educational or vocational training classes, or seek medical and
7 dental assistance.

8 (i) Willful failure of the program participant to return to the
9 place of home detention ~~later than~~ *prior to* the expiration of any
10 period of time during which he or she is authorized to be away
11 from the place of home detention pursuant to this section and
12 unauthorized departures from the place of home detention is ~~guilty~~
13 ~~of misdemeanor~~ *punishable pursuant to Section 4532*.

14 (j) The board of supervisors may prescribe a program
15 administrative fee to be paid by each electronic monitoring
16 participant.

17 (k) For purposes of this section, the following terms have the
18 following meanings:

19 (1) "Correctional administrator" means the sheriff, probation
20 officer, or director of the county department of corrections.

21 (2) "Electronic monitoring program" includes, but is not limited
22 to, home detention programs, work furlough programs, and work
23 release programs.

24 (l) Notwithstanding any other law, upon request of a local law
25 enforcement agency with jurisdiction over the location where a
26 participant in an electronic monitoring program is placed, the
27 correctional administrator shall provide the following information
28 regarding participants in the electronic monitoring program:

29 (1) The participant's name, address, and date of birth.

30 (2) The offense or offenses alleged to have been committed by
31 the participant.

32 (3) The period of time the participant will be placed on home
33 detention.

34 (4) Whether the participant successfully completed the
35 prescribed period of home detention or was returned to a county
36 correctional facility, and if the person was returned to a county
37 correctional facility, the reason for the return.

38 (5) The gender and ethnicity of the participant.

39 (m) Any information received by a law enforcement agency
40 pursuant to subdivision (l) shall be used only for the purpose of

1 monitoring the impact of home electronic monitoring programs in
2 the community.

3 (n) It is the intent of the Legislature that electronic monitoring
4 programs established under this section maintain the highest public
5 confidence, credibility, and public safety. In the furtherance of
6 these standards, the following shall apply:

7 (1) The correctional administrator, with the approval of the
8 board of supervisors, may administer an electronic monitoring
9 program as provided in this section pursuant to written contracts
10 with appropriate public or private agencies or entities to provide
11 specified program services. No public or private agency or entity
12 may operate a home detention program pursuant to this section in
13 any county without a written contract with that county's
14 correctional administrator. No public or private agency or entity
15 entering into a contract pursuant to this subdivision may itself
16 employ any person who is in the electronic monitoring program.

17 (2) Program participants shall undergo the normal booking
18 process for arrestees entering the jail. All electronic monitoring
19 program participants shall be supervised.

20 (3) (A) All privately operated electronic monitoring programs
21 shall be under the jurisdiction of, and subject to the terms and
22 conditions of the contract entered into with, the correctional
23 administrator.

24 (B) Each contract specified in subparagraph (A) shall include,
25 but not be limited to, all of the following:

26 (i) A provision whereby the private agency or entity agrees to
27 operate in compliance with any available standards and all state
28 and county laws applicable to the operation of electronic
29 monitoring programs and the supervision of offenders in an
30 electronic monitoring program.

31 (ii) A provision that clearly defines areas of respective
32 responsibility and liability of the county and the private agency or
33 entity.

34 (iii) A provision that requires the private agency or entity to
35 demonstrate evidence of financial responsibility, submitted to and
36 approved by the board of supervisors, in amounts and under
37 conditions sufficient to fully indemnify the county for reasonably
38 foreseeable public liability, including legal defense costs that may
39 arise from, or be proximately caused by, acts or omissions of the
40 contractor.

1 (iv) A provision that requires the private agency or entity to
2 provide evidence of financial responsibility, such as certificates
3 of insurance or copies of insurance policies, prior to commencing
4 any operations pursuant to the contract or at any time requested
5 by the board of supervisors or correctional administrator.

6 (v) A provision that requires an annual review by the
7 correctional administrator to ensure compliance with requirements
8 set by the board of supervisors and for adjustment of the financial
9 responsibility requirements if warranted by caseload changes or
10 other factors.

11 (vi) A provision that permits the correctional administrator to
12 immediately terminate the contract with a private agency or entity
13 at any time that the contractor fails to demonstrate evidence of
14 financial responsibility.

15 (C) All privately operated electronic monitoring programs shall
16 comply with all applicable ordinances and regulations specified
17 in subdivision (a) of Section 1208.

18 (D) The board of supervisors, the correctional administrator,
19 and the designee of the correctional administrator shall comply
20 with Section 1090 of the Government Code in the consideration,
21 making, and execution of contracts pursuant to this section.

22 (E) The failure of the private agency or entity to comply with
23 state or county laws or with the standards established by the
24 contract with the correctional administrator shall constitute cause
25 to terminate the contract.

26 (F) Upon the discovery that a private agency or entity with
27 which there is a contract is not in compliance with this paragraph,
28 the correctional administrator shall give 60 days' notice to the
29 director of the private agency or entity that the contract may be
30 canceled if the specified deficiencies are not corrected.

31 (G) Shorter notice may be given or the contract may be canceled
32 without notice whenever a serious threat to public safety is present
33 because the private agency or entity has failed to comply with this
34 section.

35 (H) For purposes of this section, "evidence of financial
36 responsibility" may include, but is not limited to, certified copies
37 of any of the following:

38 (i) A current liability insurance policy.

39 (ii) A current errors and omissions insurance policy.

40 (iii) A surety bond.

1 *SEC. 32. Section 1230 of the Penal Code is amended to read:*

2 1230. (a) Each county is hereby authorized to establish in each
3 county treasury a Community Corrections Performance Incentives
4 Fund (CCPIF), to receive all amounts allocated to that county for
5 purposes of implementing this chapter.

6 (b) In any fiscal year for which a county receives moneys to be
7 expended for the implementation of this chapter, the moneys,
8 including any interest, shall be made available to the CPO of that
9 county, within 30 days of the deposit of those moneys into the
10 fund, for the implementation of the community corrections program
11 authorized by this chapter.

12 (1) The community corrections program shall be developed and
13 implemented by probation and advised by a local Community
14 Corrections Partnership.

15 (2) The local Community Corrections Partnership shall be
16 chaired by the CPO and comprised of the following membership:

17 (A) The presiding judge of the superior court, or his or her
18 designee.

19 (B) A county supervisor or the chief administrative officer for
20 the county *or a designee of the board of supervisors*.

21 (C) The district attorney.

22 (D) The public defender.

23 (E) The sheriff.

24 (F) A chief of police.

25 (G) The head of the county department of social services.

26 (H) The head of the county department of mental health.

27 (I) The head of the county department of employment.

28 (J) The head of the county alcohol and substance abuse
29 programs.

30 (K) The head of the county office of education.

31 (L) A representative from a community-based organization with
32 experience in successfully providing rehabilitative services to
33 persons who have been convicted of a criminal offense.

34 (M) An individual who represents the interests of victims.

35 (3) Funds allocated to probation pursuant to this act shall be
36 used to provide supervision and rehabilitative services for adult
37 felony offenders subject to probation, and shall be spent on
38 evidence-based community corrections practices and programs,
39 as defined in subdivision-(e) (d) of Section 1229, which may
40 include, but are not limited to, the following:

1 (A) Implementing and expanding evidence-based risk and needs
2 assessments.

3 (B) Implementing and expanding intermediate sanctions that
4 include, but are not limited to, electronic monitoring, mandatory
5 community service, home detention, day reporting, restorative
6 justice programs, work furlough programs, and incarceration in
7 county jail for up to 90 days.

8 (C) Providing more intensive probation supervision.

9 (D) Expanding the availability of evidence-based rehabilitation
10 programs including, but not limited to, drug and alcohol treatment,
11 mental health treatment, anger management, cognitive behavior
12 programs, and job training and employment services.

13 (E) Evaluating the effectiveness of rehabilitation and supervision
14 programs and ensuring program fidelity.

15 (4) The CPO shall have discretion to spend funds on any of the
16 above practices and programs consistent with this act but, at a
17 minimum, shall devote at least 5 percent of all funding received
18 to evaluate the effectiveness of those programs and practices
19 implemented with the funds provided pursuant to this chapter. A
20 CPO may petition the Administrative Office of the Courts to have
21 this restriction waived, and the Administrative Office of the Courts
22 shall have the authority to grant such a petition, if the CPO can
23 demonstrate that the department is already devoting sufficient
24 funds to the evaluation of these programs and practices.

25 (5) Each probation department receiving funds under this chapter
26 shall maintain a complete and accurate accounting of all funds
27 received pursuant to this chapter.

28 *SEC. 33. Section 1230.1 of the Penal Code is amended to read:*

29 1230.1. (a) Each county local Community Corrections
30 Partnership established pursuant to subdivision (b) of Section 1230
31 shall recommend a local plan to the county board of supervisors
32 for the implementation of the 2011 public safety realignment.
33 ~~There is hereby established~~

34 (b) *The plan shall be voted on by an executive committee of*
35 *each county's Community Corrections Partnership consisting of*
36 *the chief probation officer of the county as chair, a chief of police,*
37 *the sheriff, a county supervisor or the chief administrative officer*
38 *for the county, and the head of the county department of social*
39 *services the District Attorney, the Public Defender, the presiding*
40 *judge of the superior court, or his or her designee, and one*

1 department representative listed in either subparagraph (G), (H),
2 or (J) of paragraph (2) of subdivision (b) of Section 1230, as
3 designated by the county board of supervisors for purposes related
4 to the development and presentation of the plan. ~~Consistent~~

5 (c) The plan shall be deemed accepted by the county board of
6 supervisors unless the board rejects the plan by a vote of four-fifths
7 of the board, in which case the plan goes back to the Community
8 Corrections Partnership for further consideration.

9 (d) Consistent with local needs and resources, the plan may
10 include recommendations to maximize the effective investment
11 of criminal justice resources in evidence-based correctional
12 sanctions and programs, including, but not limited to, day reporting
13 centers, drug courts, residential multiservice centers, mental health
14 treatment programs, electronic and GPS monitoring programs,
15 victim restitution programs, counseling programs, community
16 service programs, educational programs, and work training
17 programs.

18 SEC. 34. Section 2057 of the Penal Code is amended to read:

19 2057. Counties are authorized to contract with the Department
20 of Corrections and Rehabilitation for the commitment to the
21 department, of persons who have suffered a felony conviction. An
22 offender sentenced to a county jail that serves his or her sentence
23 in the state prison pursuant to this section shall be required to
24 comply with the rules and regulations of the department consistent
25 with Division 3 of Title 15 of the California Code of Regulations.

26 SEC. 35. Section 2932 of the Penal Code, as amended by
27 Section 467 of Chapter 15 of the Statutes of 2011, is amended to
28 read:

29 2932. (a) (1) For any time credit accumulated pursuant to
30 Section 2931, 2933, or 4019, not more than 360 days of credit may
31 be denied or lost for a single act of murder, attempted murder,
32 solicitation of murder, manslaughter, rape, sodomy, or oral
33 copulation accomplished against the victim's will, attempted rape,
34 attempted sodomy, or attempted oral copulation accomplished
35 against the victim's will, assault or battery causing serious bodily
36 injury, assault with a deadly weapon or caustic substance, taking
37 of a hostage, escape with force or violence, or possession or
38 manufacture of a deadly weapon or explosive device, whether or
39 not prosecution is undertaken for purposes of this paragraph.

1 Solicitation of murder shall be proved by the testimony of two
2 witnesses, or of one witness and corroborating circumstances.

3 (2) Not more than 180 days of credit may be denied or lost for
4 a single act of misconduct, except as specified in paragraph (1),
5 which could be prosecuted as a felony whether or not prosecution
6 is undertaken.

7 (3) Not more than 90 days of credit may be denied or lost for a
8 single act of misconduct which could be prosecuted as a
9 misdemeanor, whether or not prosecution is undertaken.

10 (4) Not more than 30 days of credit may be denied or lost for a
11 single act of misconduct defined by regulation as a serious
12 disciplinary offense by the Department of Corrections and
13 Rehabilitation. Any person confined due to a change in custodial
14 classification following the commission of any serious disciplinary
15 infraction shall, in addition to any loss of time credits, be ineligible
16 to receive participation or worktime credit for a period not to
17 exceed the number of days of credit which have been lost for the
18 act of misconduct or 180 days, whichever is less. Any person
19 confined in a secure housing unit for having committed any
20 misconduct specified in paragraph (1) in which great bodily injury
21 is inflicted upon a nonprisoner shall, in addition to any loss of time
22 credits, be ineligible to receive participation or worktime credit
23 for a period not to exceed the number of days of credit which have
24 been lost for that act of misconduct. In unusual cases, an inmate
25 may be denied the opportunity to participate in a credit qualifying
26 assignment for up to six months beyond the period specified in
27 this subdivision if the Secretary of the Department of Corrections
28 and Rehabilitation, or for prisoners confined in local facilities as
29 specified in Section 4019, the sheriff or director of the county
30 correctional department, finds, after a hearing, that no credit
31 qualifying program may be assigned to the inmate without creating
32 a substantial risk of physical harm to staff or other inmates. At the
33 end of the six-month period and of successive six-month periods,
34 the denial of the opportunity to participate in a credit qualifying
35 assignment may be renewed upon a hearing and finding by the
36 secretary, or for prisoners confined in local facilities as specified
37 in Section 4019, the sheriff or director of the county correctional
38 department.

39 (5) The prisoner may appeal the decision through the
40 department's review procedure, or in the case of prisoners confined

1 in local facilities as specified in Section 4019, through the sheriff's
2 or director of the county correctional department's review
3 procedure, which shall include a review by an individual
4 independent of the institution who has supervisory authority over
5 the institution.

6 (b) For any credit accumulated pursuant to Section 2931, not
7 more than 30 days of participation credit may be denied or lost for
8 a single failure or refusal to participate. Any act of misconduct
9 described by the Department of Corrections and Rehabilitation,
10 or for prisoners confined in local facilities as specified in Section
11 4019, the sheriff or director of the county correctional department,
12 as a serious disciplinary infraction if committed while participating
13 in work, educational, vocational, therapeutic, or other prison
14 activity shall be deemed a failure to participate.

15 (c) Any procedure not provided for by this section, but necessary
16 to carry out the purposes of this section, shall be those procedures
17 provided for by the Department of Corrections and Rehabilitation
18 for serious disciplinary infractions if those procedures are not in
19 conflict with this section, or in the case of prisoners confined in
20 local facilities as specified in Section 4019, by the sheriff or
21 director of the county correctional department.

22 (1) (A) The Department of Corrections and Rehabilitation, or
23 in the case of prisoners confined in local facilities as specified in
24 Section 4019, the sheriff or director of the county correctional
25 department, shall, using reasonable diligence to investigate, provide
26 written notice to the prisoner. The written notice shall be given
27 within 15 days after the discovery of information leading to charges
28 that may result in a possible denial of credit, except that if the
29 prisoner has escaped, the notice shall be given within 15 days of
30 the prisoner's return to the custody of the Secretary of the
31 Department of Corrections and Rehabilitation, or in the case of
32 prisoners confined in local facilities as specified in Section 4019,
33 the sheriff or director of the county correctional department. The
34 written notice shall include the specific charge, the date, the time,
35 the place that the alleged misbehavior took place, the evidence
36 relied upon, a written explanation of the procedures that will be
37 employed at the proceedings and the prisoner's rights at the
38 hearing. The hearing shall be conducted by an individual who shall
39 be independent of the case and shall take place within 30 days of
40 the written notice.

1 (B) The Secretary of the Department of Corrections and
2 Rehabilitation, or in the case of prisoners confined in local facilities
3 as specified in Section 4019, the sheriff or director of the county
4 correctional department, may delay written notice beyond 15 days
5 when all of the following factors are true:

6 (i) An act of misconduct is involved which could be prosecuted
7 as murder, attempted murder, or assault on a prison employee,
8 whether or not prosecution is undertaken.

9 (ii) Further investigation is being undertaken for the purpose of
10 identifying other prisoners involved in the misconduct.

11 (iii) Within 15 days after the discovery of information leading
12 to charges that may result in a possible denial of credit, the
13 investigating officer makes a written request to delay notifying
14 that prisoner and states the reasons for the delay.

15 (iv) The warden of the institution, or for prisoners confined in
16 local facilities as specified in Section 4019, the sheriff or director
17 of the county correctional department, approves of the delay in
18 writing.

19 (C) The period of delay under this paragraph shall not exceed
20 30 days. The prisoner's hearing shall take place within 30 days of
21 the written notice.

22 (2) The prisoner may elect to be assigned an employee to assist
23 in the investigation, preparation, or presentation of a defense at
24 the disciplinary hearing if it is determined by the department, or
25 for prisoners confined in local facilities as specified in Section
26 4019, the sheriff or director of the county correctional department,
27 that: (A) the prisoner is illiterate; or (B) the complexity of the
28 issues or the prisoner's confinement status makes it unlikely that
29 the prisoner can collect and present the evidence necessary for an
30 adequate comprehension of the case.

31 (3) The prisoner may request witnesses to attend the hearing
32 and they shall be called unless the person conducting the hearing
33 has specific reasons to deny this request. The specific reasons shall
34 be set forth in writing and a copy of the document shall be
35 presented to the prisoner.

36 (4) The prisoner has the right, under the direction of the person
37 conducting the hearing, to question all witnesses.

38 (5) At the conclusion of the hearing the charge shall be
39 dismissed if the facts do not support the charge, or the prisoner

1 may be found guilty on the basis of a preponderance of the
2 evidence.

3 (d) If found guilty the prisoner shall be advised in writing of
4 the guilty finding and the specific evidence relied upon to reach
5 this conclusion and the amount of time-credit loss. The prisoner
6 may appeal the decision through the Department of Corrections
7 and Rehabilitation's review procedure, or in the case of prisoners
8 confined in local facilities as specified in Section 4019, the review
9 procedure established by the sheriff or the director of the county
10 correctional department, and may, upon final notification of appeal
11 denial, within 15 days of the notification demand review of the
12 denial of credit to the Board of Parole Hearings, or in the case of
13 prisoners confined in local facilities as specified in Section 4019,
14 ~~the court with jurisdiction over the prisoner, through a procedure~~
15 ~~established by the sheriff or the director of the county correctional~~
16 ~~department and the board or the court local entity acting for the~~
17 ~~county may affirm, reverse, or modify the decision or grant a~~
18 ~~hearing before the board or the court local entity at which hearing~~
19 the prisoner shall have the rights specified in Section 3041.5.

20 (e) Each prisoner subject to Section 2931 shall be notified of
21 the total amount of good behavior and participation credit which
22 may be credited pursuant to Section 2931, and his or her anticipated
23 time-credit release date. The prisoner shall be notified of any
24 change in the anticipated release date due to denial or loss of
25 credits, award of worktime credit, under Section 2933, or the
26 restoration of any credits previously forfeited.

27 (f) (1) If the conduct the prisoner is charged with also
28 constitutes a crime, the Department of Corrections and
29 Rehabilitation, or in the case of prisoners confined in local facilities
30 as specified in Section 4019, the sheriff or director of the county
31 correctional department, may refer the case to criminal authorities
32 for possible prosecution. The department, or in the case of prisoners
33 confined in local facilities as specified in Section 4019, the sheriff
34 or director of the county correctional department, shall notify the
35 prisoner, who may request postponement of the disciplinary
36 proceedings pending the referral.

37 (2) The prisoner may revoke his or her request for postponement
38 of the disciplinary proceedings up until the filing of the accusatory
39 pleading. In the event of the revocation of the request for

1 postponement of the proceeding, the department or the ~~court~~ *local*
2 *entity* shall hold the hearing within 30 days of the revocation.

3 (3) Notwithstanding the notification requirements in this
4 paragraph and subparagraphs (A) and (B) of paragraph (1) of
5 subdivision (c), in the event the case is referred to criminal
6 authorities for prosecution and the authority requests that the
7 prisoner not be notified so as to protect the confidentiality of its
8 investigation, no notice to the prisoner shall be required until an
9 accusatory pleading is filed with the court, or the authority notifies
10 the warden, in writing, that it will not prosecute or it authorizes
11 the notification of the prisoner. The notice exceptions provided
12 for in this paragraph shall only apply if the criminal authority
13 requests of the warden, in writing, and within the 15 days provided
14 in subparagraph (A) of paragraph (1) of subdivision (c), that the
15 prisoner not be notified. Any period of delay of notice to the
16 prisoner shall not exceed 30 days beyond the 15 days referred to
17 in subdivision (c). In the event that no prosecution is undertaken,
18 the procedures in subdivision (c) shall apply, and the time periods
19 set forth in that subdivision shall commence to run from the date
20 the warden is notified in writing of the decision not to prosecute.
21 In the event the authority either cancels its requests that the prisoner
22 not be notified before it makes a decision on prosecution or files
23 an accusatory pleading, the provisions of this paragraph shall apply
24 as if no request had been received, beginning from the date of the
25 cancellation or filing.

26 (4) In the case where the prisoner is prosecuted by the district
27 attorney, the Department of Corrections and Rehabilitation, or in
28 the case of prisoners confined in local facilities as specified in
29 Section 4019, the sheriff or the director of the county department
30 of corrections, shall not deny time credit where the prisoner is
31 found not guilty and may deny credit if the prisoner is found guilty,
32 in which case the procedures in subdivision (c) shall not apply.

33 (g) If time credit denial proceedings or criminal prosecution
34 prohibit the release of a prisoner who would have otherwise been
35 released, and the prisoner is found not guilty of the alleged
36 misconduct, the amount of time spent incarcerated, in excess of
37 what the period of incarceration would have been absent the alleged
38 misbehavior, shall be deducted from the prisoner's parole period.

39 (h) Nothing in the amendments to this section made at the
40 1981–82 Regular Session of the Legislature shall affect the granting

1 or revocation of credits attributable to that portion of the prisoner's
2 sentence served prior to January 1, 1983.

3 *SEC. 36. Section 3000 of the Penal Code, as amended by*
4 *Section 468 of Chapter 15 of the Statutes of 2011, is amended to*
5 *read:*

6 3000. (a) (1) The Legislature finds and declares that the period
7 immediately following incarceration is critical to successful
8 reintegration of the offender into society and to positive citizenship.
9 It is in the interest of public safety for the state to provide for the
10 effective supervision of and surveillance of parolees, including
11 the judicious use of revocation actions, and to provide educational,
12 vocational, family and personal counseling necessary to assist
13 parolees in the transition between imprisonment and discharge. A
14 sentence *resulting in imprisonment in the state prison* pursuant to
15 Section 1168 or 1170 shall include a period of parole *supervision*
16 *or postrelease community supervision*, unless waived, or as
17 otherwise provided in this article.

18 (2) The Legislature finds and declares that it is not the intent of
19 this section to diminish resources allocated to the Department of
20 Corrections and Rehabilitation for parole functions for which the
21 department is responsible. It is also not the intent of this section
22 to diminish the resources allocated to the Board of Parole Hearings
23 to execute its duties with respect to parole functions for which the
24 board is responsible.

25 (3) The Legislature finds and declares that diligent effort must
26 be made to ensure that parolees are held accountable for their
27 criminal behavior, including, but not limited to, the satisfaction of
28 restitution fines and orders.

29 (4) The parole period of any person found to be a sexually
30 violent predator shall be tolled until that person is found to no
31 longer be a sexually violent predator, at which time the period of
32 parole, or any remaining portion thereof, shall begin to run.

33 (b) Notwithstanding any provision to the contrary in Article 3
34 (commencing with Section 3040) of this chapter, the following
35 shall apply to any inmate subject to Section 3000.08:

36 (1) In the case of any inmate sentenced under Section 1168, the
37 period of parole shall not exceed five years in the case of an inmate
38 imprisoned for any offense other than first or second degree murder
39 for which the inmate has received a life sentence, and shall not
40 exceed three years in the case of any other inmate, unless in either

1 case the ~~court~~ *parole authority* for good cause waives parole and
2 discharges the inmate from custody of the department. This
3 subdivision shall also be applicable to inmates who committed
4 crimes prior to July 1, 1977, to the extent specified in Section
5 1170.2.

6 (2) At the expiration of a term of imprisonment of one year and
7 one day, or a term of imprisonment imposed pursuant to Section
8 1170 or at the expiration of a term reduced pursuant to Section
9 2931 or 2933, if applicable, the inmate shall be released on parole
10 for a period not exceeding three years, except that any inmate
11 sentenced for an offense specified in paragraph (3), (4), (5), (6),
12 (11), or (18) of subdivision (c) of Section 667.5 shall be released
13 on parole for a period not exceeding 10 years, unless a longer
14 period of parole is specified in Section 3000.1.

15 (3) Notwithstanding paragraphs (1) and (2), in the case of any
16 offense for which the inmate has received a life sentence pursuant
17 to subdivision (b) of Section 209, with the intent to commit a
18 specified sex offense, or Section 667.51, 667.61, or 667.71, the
19 period of parole shall be 10 years, unless a longer period of parole
20 is specified in Section 3000.1.

21 (4) (A) Notwithstanding paragraphs (1) to (3), inclusive, in the
22 case of a person convicted of and required to register as a sex
23 offender for the commission of an offense specified in Section
24 261, 262, 264.1, 286, 288a, paragraph (1) of subdivision (b) of
25 Section 288, Section 288.5, or 289, in which one or more of the
26 victims of the offense was a child under 14 years of age, the period
27 of parole shall be 20 years and six months unless the ~~court~~ *board*,
28 for good cause, determines that the person will be retained on
29 parole. The ~~court~~ *board* shall make a written record of this
30 determination and transmit a copy of it to the parolee.

31 (B) In the event of a retention on parole, the parolee shall be
32 entitled to a review by the ~~court~~ *board* each year thereafter.

33 (C) There shall be a ~~court~~ *board* hearing consistent with the
34 procedures set forth in Sections 3041.5 and 3041.7 within 12
35 months of the date of any order returning the parolee to custody
36 to consider the release of the inmate on parole, and notwithstanding
37 the provisions of paragraph (2) of subdivision (b) of Section
38 3041.5, there shall be annual parole consideration hearings
39 thereafter, unless the person is released or otherwise ineligible for
40 parole release. The ~~court~~ *panel or board* shall release the person

1 within one year of the date of the revocation unless it determines
2 that the circumstances and gravity of the parole violation are such
3 that consideration of the public safety requires a more lengthy
4 period of incarceration or unless there is a new prison commitment
5 following a conviction.

6 (D) The provisions of Section 3042 shall not apply to any
7 hearing held pursuant to this subdivision.

8 (5) ~~The court~~ *parole authority* shall consider the request of any
9 inmate regarding the length of his or her parole and the conditions
10 thereof.

11 (6) Upon successful completion of parole, or at the end of the
12 maximum statutory period of parole specified for the inmate under
13 paragraph (1), (2), (3), or (4), as the case may be, whichever is
14 earlier, the inmate shall be discharged from custody. The date of
15 the maximum statutory period of parole under this subdivision and
16 paragraphs (1), (2), (3), and (4) shall be computed from the date
17 of initial parole and shall be a period chronologically determined.
18 Time during which parole is suspended because the prisoner has
19 absconded or has been returned to custody as a parole violator
20 shall not be credited toward any period of parole unless the prisoner
21 is found not guilty of the parole violation. However, the period of
22 parole is subject to the following:

23 (A) Except as provided in Section 3064, in no case may a
24 prisoner subject to three years on parole be retained under parole
25 supervision or in custody for a period longer than four years from
26 the date of his or her initial parole.

27 (B) Except as provided in Section 3064, in no case may a
28 prisoner subject to five years on parole be retained under parole
29 supervision or in custody for a period longer than seven years from
30 the date of his or her initial parole.

31 (C) Except as provided in Section 3064, in no case may a
32 prisoner subject to 10 years on parole be retained under parole
33 supervision or in custody for a period longer than 15 years from
34 the date of his or her initial parole.

35 (7) The Department of Corrections and Rehabilitation shall meet
36 with each inmate at least 30 days prior to his or her good time
37 release date and shall provide, under guidelines specified by the
38 parole authority or the department, whichever is applicable, the
39 conditions of parole and the length of parole up to the maximum
40 period of time provided by law. The inmate has the right to

1 reconsideration of the length of parole and conditions thereof by
2 the department or the parole authority, whichever is applicable.
3 The Department of Corrections and Rehabilitation or the ~~Board~~
4 ~~of Parole Hearings~~ board may impose as a condition of parole that
5 a prisoner make payments on the prisoner's outstanding restitution
6 fines or orders imposed pursuant to subdivision (a) or (c) of Section
7 13967 of the Government Code, as operative prior to September
8 28, 1994, or subdivision (b) or (f) of Section 1202.4.

9 (8) For purposes of this chapter, the ~~Board of Parole Hearings,~~
10 ~~or where applicable, the court,~~ board shall be considered the parole
11 authority.

12 (9) The sole authority to issue warrants for the return to actual
13 custody of any state prisoner released on parole rests with the ~~court~~
14 ~~board~~, except for any escaped state prisoner or any state prisoner
15 released prior to his or her scheduled release date who should be
16 returned to custody, and Section 3060 shall apply.

17 (10) It is the intent of the Legislature that efforts be made with
18 respect to persons who are subject to Section 290.011 who are on
19 parole to engage them in treatment.

20 *SEC. 37. Section 3000.08 of the Penal Code is amended to*
21 *read:*

22 3000.08. (a) Persons released from state prison on or after ~~July~~
23 ~~October 1, 2011~~, after serving a prison term *or, whose sentence*
24 *has been deemed served pursuant to Section 2900.5*, for any of
25 the following ~~felonies crimes~~ shall be subject to *the jurisdiction*
26 *of and* parole supervision by the Department of Corrections and
27 Rehabilitation ~~and the jurisdiction of the court in the county into~~
28 ~~which the parolee is released~~:

29 (1) A serious felony as described in subdivision (c) of Section
30 1192.7.

31 (2) A violent felony as described in subdivision (c) of Section
32 667.5.

33 (3) A crime for which the person was sentenced pursuant to
34 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
35 of subdivision (c) of Section 1170.12.

36 (4) Any crime where the person eligible for release from prison
37 is classified as a High Risk Sex Offender.

38 (5) *Any crime where the person is required, as a condition of*
39 *parole, to undergo treatment by the Department of Mental Health*
40 *pursuant to Section 2962.*

1 (b) Notwithstanding any other provision of law, all other
2 offenders released from prison shall be placed on postrelease
3 supervision pursuant to Title 2.05 (commencing with Section
4 3450).

5 (e) ~~At any time during the period of parole of a person subject~~
6 ~~to this section, if any parole agent or peace officer has probable~~
7 ~~cause to believe that the parolee is violating any term or condition~~
8 ~~of his or her parole, the agent or officer may, without warrant or~~
9 ~~other process and at any time until the final disposition of the case,~~
10 ~~arrest the person and bring him or her before the court or the court~~
11 ~~may, in its discretion, issue a warrant for that person's arrest.~~

12 ~~(d) Upon a hearing on the alleged violation and a finding of~~
13 ~~good cause that the parolee has committed a violation of law or~~
14 ~~violated his or her conditions of parole, the court may impose~~
15 ~~additional and appropriate conditions of supervision, including~~
16 ~~rehabilitation and treatment services and appropriate incentives~~
17 ~~for compliance, and impose immediate, structured, and graduated~~
18 ~~sanctions for parole violations, including imprisonment in a county~~
19 ~~jail.~~

20 ~~(e) (1) Upon its own motion or upon the petition of the parolee,~~
21 ~~parole agent, or the district attorney of the county in which the~~
22 ~~parolee is supervised, the court may modify the parole of the~~
23 ~~parolee pursuant to subdivision (b) of this subdivision. The court~~
24 ~~shall give notice of its motion, and the parole agent or the district~~
25 ~~attorney shall give notice of his or her petition to the parolee, his~~
26 ~~or her attorney of record, and the district attorney or the parole~~
27 ~~agent, as the case may be. The parolee shall give notice of his or~~
28 ~~her petition to the parole agent and notice of any motion or petition~~
29 ~~shall be given to the district attorney in all cases. The court shall~~
30 ~~refer its motion or the petition to the parole agent, and the parole~~
31 ~~agent shall prepare a written report regarding the facts and~~
32 ~~circumstances of the motion or petition to modify parole.~~

33 ~~(2) After the receipt of a written report from the parole agent,~~
34 ~~the court shall read and consider the report and either its motion~~
35 ~~or the petition, and may modify the parole of the parolee upon the~~
36 ~~grounds set forth in subdivision (b) if the interests of justice so~~
37 ~~require. Upon the agreement by the parolee in writing to the~~
38 ~~specific terms of a modification of a specific term of parole, any~~
39 ~~requirement that the parolee make a personal appearance in court~~
40 ~~for the purpose of a modification shall be waived.~~

~~(3) Prior to the modification of a specific term of parole and waiver of appearance, the parolee shall be informed of his or her right to consult with counsel if the modification of parole requires the parolee to serve a period of time in jail in excess of 14 days, or if the parolee is indigent, inform him or her of the right to secure court appointed counsel. If the parolee waives his or her right to counsel, a written waiver shall be required. If the parolee consults with counsel and thereafter agrees to a modification of the term of parole and waiver of personal appearance, the agreement shall be signed by counsel showing approval for the modification of parole and waiver of appearance.~~

~~(f) Notwithstanding any other provision of law, in any case where Section 3000.1 applies to a person who is on parole and there is good cause to believe that the person has committed a violation of law or violated his or her conditions of parole, and there is imposed a period of imprisonment of longer than 30 days, that person shall be remanded to the custody of the Department of Corrections and Rehabilitation and the jurisdiction of the Board of Parole Hearings for the purpose of future parole consideration.~~

~~(c) This section shall operative only until July 1, 2013, and as of January 1, 2014 is repealed, unless a later enacted statute, that is enacted before January 1, 2014, deletes or extends that date.~~

SEC. 38. Section 3000.08 is added to the Penal Code, to read:

3000.08. (a) Persons released from state prison on or after July 1, 2013, after serving a prison term or, whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes shall be subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county where the parolee is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody:

(1) A serious felony as described in subdivision (c) of Section 1192.7.

(2) A violent felony as described in subdivision (c) of Section 667.5.

(3) A crime for which the person was sentenced pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12.

(4) Any crime where the person eligible for release from prison is classified as a High Risk Sex Offender.

1 (5) Any crime where the person is required, as a condition of
2 parole, to undergo treatment by the Department of Mental Health
3 pursuant to Section 2962.

4 (b) Notwithstanding any other provision of law, all other
5 offenders released from prison shall be placed on postrelease
6 supervision pursuant to Title 2.05 (commencing with Section 3450).

7 (c) At any time during the period of parole of a person subject
8 to this section, if any parole agent or peace officer has probable
9 cause to believe that the parolee is violating any term or condition
10 of his or her parole, the agent or officer may, without warrant or
11 other process and at any time until the final disposition of the case,
12 arrest the person and bring him or her before the parole authority,
13 or the parole authority may, in its discretion, issue a warrant for
14 that person's arrest.

15 (d) Upon review of the alleged violation and a finding of good
16 cause that the parolee has committed a violation of law or violated
17 his or her conditions of parole, the parole authority may impose
18 additional and appropriate conditions of supervision, including
19 rehabilitation and treatment services and appropriate incentives
20 for compliance, and impose immediate, structured, and
21 intermediate sanctions for parole violations, including flash
22 incarceration in a county jail. Periods of "flash incarceration,"
23 as defined in subdivision (e) are encouraged as one method of
24 punishment for violations of a parolee's conditions of parole.
25 Nothing in this section is intended to preclude referrals to a reentry
26 court pursuant to Section 3015.

27 (e) "Flash incarceration" is a period of detention in county jail
28 due to a violation of a parolee's conditions of parole. The length
29 of the detention period can range between one and 10 consecutive
30 days. Shorter, but if necessary more frequent, periods of detention
31 for violations of a parolee's conditions of parole shall
32 appropriately punish a parolee while preventing the disruption in
33 a work or home establishment that typically arises from longer
34 periods of detention.

35 (f) If the supervising parole agency has determined, following
36 application of its assessment processes, that intermediate sanctions
37 up to and including flash incarceration are not appropriate, the
38 supervising agency shall petition the revocation hearing officer
39 appointed pursuant to Section 71622.5 of the Government Code
40 in the county in which the parolee is being supervised to revoke

1 parole. At any point during the process initiated pursuant to this
2 section, a parolee may waive, in writing, his or her right to counsel,
3 admit the parole violation, waive a court hearing, and accept the
4 proposed parole modification. The petition shall include a written
5 report that contains additional information regarding the petition,
6 including the relevant terms and conditions of parole, the
7 circumstances of the alleged underlying violation, the history and
8 background of the parolee, and any recommendations. The Judicial
9 Council shall adopt forms and rules of court to establish uniform
10 statewide procedures to implement this subdivision, including the
11 minimum contents of supervision agency reports. Upon a finding
12 that the person has violated the conditions of parole, the revocation
13 hearing officer shall have authority to do any of the following:

14 (1) Return the person to parole supervision with modifications
15 of conditions, if appropriate, including a period of incarceration
16 in county jail.

17 (2) Revoke parole and order the person to confinement in the
18 county jail.

19 (3) Refer the person to a reentry court pursuant to Section 3015
20 or other evidence-based program in the court's discretion.

21 (g) Confinement pursuant to paragraphs (1) and (2) of
22 subdivision (f) shall not exceed a period of 180 days in the county
23 jail.

24 (h) Notwithstanding any other provision of law, in any case
25 where Section 3000.1 applies to a person who is on parole and
26 there is good cause to believe that the person has committed a
27 violation of law or violated his or her conditions of parole, and
28 there is imposed a period of imprisonment of longer than 30 days,
29 that person shall be remanded to the custody of the Department
30 of Corrections and Rehabilitation and the jurisdiction of the Board
31 of Parole Hearings for the purpose of future parole consideration.

32 (i) This section shall become operative on July 1, 2013.

33 SEC. 39. Section 3000.09 of the Penal Code, as added by
34 Section 470 of Chapter 15 of the Statutes of 2011, is amended to
35 read:

36 3000.09. (a) Notwithstanding any other law, any parolee who
37 was paroled from state prison prior to ~~July~~ October 1, 2011, shall
38 be subject to this section.

1 (b) Parolees subject to this section shall remain under
2 supervision by the Department of Corrections and Rehabilitation
3 until one of the following occurs:

4 (1) Jurisdiction over the person is terminated by operation of
5 law.

6 (2) The supervising agent recommends to the ~~jurisdictional~~
7 *parole* authority that the offender be discharged and the
8 ~~jurisdictional parole~~ authority approves the discharge.

9 (3) The offender, except an offender who if released from prison
10 after ~~July~~ *October* 1, 2011, would be subject to parole based on
11 the criteria identified in subdivision (a) of Section 3000.08,
12 completes six consecutive months of parole without violating their
13 conditions, at which time the supervising agent shall review and
14 make a recommendation on whether to discharge the offender to
15 the ~~jurisdictional parole~~ authority and the ~~jurisdictional parole~~
16 authority approves the discharge.

17 (c) Parolees subject to this section who are being held for a
18 parole violation in county jail on ~~July~~ *October* 1, 2011, shall be
19 subject to the jurisdiction of the Board of Parole Hearings *and*
20 *may, upon revocation, be remanded to the state prison. Upon*
21 *completion of a revocation term, the parolee shall either remain*
22 *under parole supervision of the department pursuant to Section*
23 *3000.08 or shall be placed on post release community supervision*
24 *pursuant to Title 2.05 (commencing with Section 3450).*

25 ~~(d) Persons who are subject to this section and on parole for a~~
26 ~~serious felony described in subdivision (c) of Section 1192.7, a~~
27 ~~violent felony described in subdivision (c) of Section 667.5, a~~
28 ~~crime for which the person was sentenced pursuant to paragraph~~
29 ~~(2) of subdivision (c) of Section 667 or paragraph (2) of subdivision~~
30 ~~(c) of Section 1170.12, or any crime where the person released~~
31 ~~from prison was classified as a High Risk Sex Offender, whose~~
32 ~~parole is revoked, as ordered by the Board of Parole Hearings,~~
33 ~~shall be remanded to state prison. Upon completion of a revocation~~
34 ~~term for imprisonment in state prison, the parolee shall remain~~
35 ~~under the supervision of the Division of Adult Parole Operations.~~
36 ~~Any subsequent revocation action shall be conducted by the court~~
37 ~~in the county into which the parolee was released. Any subsequent~~
38 ~~term of imprisonment as ordered by the court for a violation of the~~
39 ~~person's conditions of parole shall be subject to Section 3000.08.~~

~~(e) Parolees subject to this section who are not on parole for a crime or with a classification described in subdivision (c) who violate the conditions of their parole on or after July 1, 2011, shall be under the jurisdiction of the court in the county into which the parolee was released. Persons returned to custody for any violation of a parole condition, as ordered by the court, shall serve any custody term in county jail.~~

(d) Any parolee who was paroled prior to October 1, 2011, who commits a violation of parole shall be subject to parole revocation procedures in accordance with the procedures established under subdivision (f) of Section 3000.08.

~~(f)~~

(e) This section shall remain in effect until July October 1, 2014, and on that date and thereafter any person, who is not on parole for a crime or with a classification described in subdivision (e) (d), shall be discharged from parole.

SEC. 40. Section 3000.1 of the Penal Code, as amended by Section 471 of Chapter 15 of the Statutes of 2011, is amended to read:

3000.1. (a) (1) In the case of any inmate sentenced under Section 1168 for any offense of first or second degree murder with a maximum term of life imprisonment, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(2) Notwithstanding any other provision of law, in the case of any inmate sentenced to a life term under subdivision (b) of Section 209, if that offense was committed with the intent to commit a specified sexual offense, Sections 269 and 288.7, subdivision (c) of Section 667.51, Section 667.71 in which one or more of the victims of the offense was a child under 14 years of age, or subdivision (j), (l), or (m) of Section 667.61, the period of parole, if parole is granted, shall be the remainder of the inmate's life.

(b) Notwithstanding any other provision of law, when any person referred to in paragraph (1) of subdivision (a) has been released on parole from the state prison, and has been on parole continuously for seven years in the case of any person imprisoned for first degree murder, and five years in the case of any person imprisoned for second degree murder, since release from confinement, the court board shall, within 30 days, discharge that person from parole, unless the court board, for good cause, determines that the person will be retained on parole. The court

1 *board* shall make a written record of its determination and transmit
2 a copy of it to the parolee.

3 (c) In the event of a retention on parole pursuant to subdivision
4 (b), the parolee shall be entitled to a review by the ~~court~~ *board*
5 each year thereafter.

6 (d) There shall be a hearing as provided in Sections 3041.5 and
7 3041.7 within 12 months of the date of any revocation of parole
8 pursuant to subdivision (d) of Section 3000.08 to consider the
9 release of the inmate on parole and, notwithstanding the provisions
10 of paragraph (2) of subdivision (b) of Section 3041.5, there shall
11 be annual parole consideration hearings thereafter, unless the
12 person is released or otherwise ineligible for parole release. The
13 panel or board shall release the person within one year of the date
14 of the revocation unless it determines that the circumstances and
15 gravity of the parole violation are such that consideration of the
16 public safety requires a more lengthy period of incarceration or
17 unless there is a new prison commitment following a conviction.

18 (e) The provisions of Section 3042 shall not apply to any
19 hearing held pursuant to this section.

20 *SEC. 41. Section 3001 of the Penal Code, as amended by*
21 *Section 472 of Chapter 15 of the Statutes of 2011, is amended to*
22 *read:*

23 3001. (a) Notwithstanding any other provision of law, when
24 any person referred to in paragraph (1) of subdivision (b) of Section
25 3000 who was not imprisoned for committing a violent felony, as
26 defined in subdivision (c) of Section 667.5, has been released on
27 parole from the state prison, and has been on parole continuously
28 for six months since release from confinement, within 30 days,
29 that person shall be discharged from parole, unless the Department
30 of Corrections and Rehabilitation recommends to the ~~court~~ *Board*
31 *of Parole Hearings* that the person be retained on parole and the
32 ~~court board~~, for good cause, determines that the person will be
33 retained. Notwithstanding any other provision of law, when any
34 person referred to in paragraph (1) of subdivision (b) of Section
35 3000 who was imprisoned for committing a violent felony, as
36 defined in subdivision (c) of Section 667.5, has been released on
37 parole from the state prison for a period not exceeding three years
38 and has been on parole continuously for two years since release
39 from confinement, or has been released on parole from the state
40 prison for a period not exceeding five years and has been on parole

1 continuously for three years since release from confinement, the
2 department shall discharge, within 30 days, that person from parole,
3 unless the department recommends to the ~~court~~ board that the
4 person be retained on parole and the ~~court~~ board, for good cause,
5 determines that the person will be retained. The ~~court~~ board shall
6 make a written record of its determination and the department shall
7 transmit a copy thereof to the parolee.

8 (b) Notwithstanding any other provision of law, when any person
9 referred to in paragraph (2) of subdivision (b) of Section 3000 has
10 been released on parole from the state prison, and has been on
11 parole continuously for three years since release from confinement,
12 the ~~court~~ board shall discharge, within 30 days, the person from
13 parole, unless the ~~court~~ board, for good cause, determines that the
14 person will be retained on parole. The ~~court~~ shall state its findings
15 on the record ~~board shall make a written record of its~~
16 ~~determination~~ and the department shall transmit a copy of those
17 findings of that determination to the parolee.

18 (c) Notwithstanding any other provision of law, when any person
19 referred to in paragraph (3) of subdivision (b) of Section 3000 has
20 been released on parole from the state prison, and has been on
21 parole continuously for six years and six months since release from
22 confinement, the ~~court~~ board shall discharge, within 30 days, the
23 person from parole, unless the ~~court~~ board, for good cause,
24 determines that the person will be retained on parole. The ~~court~~
25 board shall make a written record of its determination and the
26 department shall transmit a copy thereof to the parolee.

27 (d) In the event of a retention on parole, the parolee shall be
28 entitled to a review by the parole authority each year thereafter
29 until the maximum statutory period of parole has expired.

30 (e) The amendments to this section made during the 1987–88
31 Regular Session of the Legislature shall only be applied
32 prospectively and shall not extend the parole period for any person
33 whose eligibility for discharge from parole was fixed as of the
34 effective date of those amendments.

35 SEC. 42. Section 3003 of the Penal Code, as amended by
36 Section 473 of Chapter 15 of the Statutes of 2011, is amended to
37 read:

38 3003. (a) Except as otherwise provided in this section, an
39 inmate who is released on parole or postrelease supervision as
40 provided by Title 2.05 (commencing with Section 3450) shall be

1 returned to the county that was the last legal residence of the inmate
2 prior to his or her incarceration. For purposes of this subdivision,
3 “last legal residence” shall not be construed to mean the county
4 wherein the inmate committed an offense while confined in a state
5 prison or local jail facility or while confined for treatment in a
6 state hospital.

7 (b) Notwithstanding subdivision (a), an inmate may be returned
8 to another county if that would be in the best interests of the public.
9 If the Board of Parole Hearings setting the conditions of parole
10 for inmates sentenced pursuant to subdivision (b) of Section 1168,
11 as determined by the parole consideration panel, or the Department
12 of Corrections and Rehabilitation setting the conditions of parole
13 for inmates sentenced pursuant to Section 1170, decides on a return
14 to another county, it shall place its reasons in writing in the
15 parolee’s permanent record and include these reasons in the notice
16 to the sheriff or chief of police pursuant to Section 3058.6. In
17 making its decision, the paroling authority shall consider, among
18 others, the following factors, giving the greatest weight to the
19 protection of the victim and the safety of the community:

20 (1) The need to protect the life or safety of a victim, the parolee,
21 a witness, or any other person.

22 (2) Public concern that would reduce the chance that the
23 inmate’s parole would be successfully completed.

24 (3) The verified existence of a work offer, or an educational or
25 vocational training program.

26 (4) The existence of family in another county with whom the
27 inmate has maintained strong ties and whose support would
28 increase the chance that the inmate’s parole would be successfully
29 completed.

30 (5) The lack of necessary outpatient treatment programs for
31 parolees receiving treatment pursuant to Section 2960.

32 (c) The Department of Corrections and Rehabilitation, in
33 determining an out-of-county commitment, shall give priority to
34 the safety of the community and any witnesses and victims.

35 (d) In making its decision about an inmate who participated in
36 a joint venture program pursuant to Article 1.5 (commencing with
37 Section 2717.1) of Chapter 5, the paroling authority shall give
38 serious consideration to releasing him or her to the county where
39 the joint venture program employer is located if that employer

1 states to the paroling authority that he or she intends to employ
2 the inmate upon release.

3 (e) (1) The following information, if available, shall be released
4 by the Department of Corrections and Rehabilitation to local law
5 enforcement agencies regarding a paroled inmate or inmate placed
6 on postrelease supervision pursuant to Title 2.05 (commencing
7 with Section 3450) who is released in their jurisdictions:

8 (A) Last, first, and middle name.

9 (B) Birth date.

10 (C) Sex, race, height, weight, and hair and eye color.

11 (D) Date of parole and discharge.

12 (E) Registration status, if the inmate is required to register as a
13 result of a controlled substance, sex, or arson offense.

14 (F) California Criminal Information Number, FBI number, social
15 security number, and driver's license number.

16 (G) County of commitment.

17 (H) A description of scars, marks, and tattoos on the inmate.

18 (I) Offense or offenses for which the inmate was convicted that
19 resulted in parole in this instance.

20 (J) Address, including all of the following information:

21 (i) Street name and number. Post office box numbers are not
22 acceptable for purposes of this subparagraph.

23 (ii) City and ZIP Code.

24 (iii) Date that the address provided pursuant to this subparagraph
25 was proposed to be effective.

26 (K) Contact officer and unit, including all of the following
27 information:

28 (i) Name and telephone number of each contact officer.

29 (ii) Contact unit type of each contact officer such as units
30 responsible for parole, registration, or county probation.

31 (L) A digitized image of the photograph and at least a single
32 digit fingerprint of the parolee.

33 (M) A geographic coordinate for the parolee's residence location
34 for use with a Geographical Information System (GIS) or
35 comparable computer program.

36 (2) The information required by this subdivision shall come
37 from the statewide parolee database. The information obtained
38 from each source shall be based on the same timeframe.

39 (3) All of the information required by this subdivision shall be
40 provided utilizing a computer-to-computer transfer in a format

1 usable by a desktop computer system. The transfer of this
2 information shall be continually available to local law enforcement
3 agencies upon request.

4 (4) The unauthorized release or receipt of the information
5 described in this subdivision is a violation of Section 11143.

6 (f) Notwithstanding any other provision of law, an inmate who
7 is released on parole shall not be returned to a location within 35
8 miles of the actual residence of a victim of, or a witness to, a
9 violent felony as defined in paragraphs (1) to (7), inclusive, and
10 paragraph (16) of subdivision (c) of Section 667.5 or a felony in
11 which the defendant inflicts great bodily injury on any person other
12 than an accomplice that has been charged and proved as provided
13 for in Section 12022.53, 12022.7, or 12022.9, if the victim or
14 witness has requested additional distance in the placement of the
15 inmate on parole, and if the Board of Parole Hearings or the
16 Department of Corrections and Rehabilitation finds that there is a
17 need to protect the life, safety, or well-being of a victim or witness.

18 (g) Notwithstanding any other law, an inmate who is released
19 on parole for a violation of Section 288 or 288.5 whom the
20 Department of Corrections and Rehabilitation determines poses a
21 high risk to the public shall not be placed or reside, for the duration
22 of his or her parole, within one-half mile of any public or private
23 school including any or all of kindergarten and grades 1 to 12,
24 inclusive.

25 (h) Notwithstanding any other law, an inmate who is released
26 on parole for an offense involving stalking shall not be returned
27 to a location within 35 miles of the victim's actual residence or
28 place of employment if the victim or witness has requested
29 additional distance in the placement of the inmate on parole, and
30 if the Board of Parole Hearings or the Department of Corrections
31 and Rehabilitation finds that there is a need to protect the life,
32 safety, or well-being of the victim.

33 (i) The authority shall give consideration to the equitable
34 distribution of parolees and the proportion of out-of-county
35 commitments from a county compared to the number of
36 commitments from that county when making parole decisions.

37 (j) An inmate may be paroled to another state pursuant to any
38 other law. The Department of Corrections and Rehabilitation shall
39 coordinate with local entities regarding the placement of inmates

1 placed out of state on postrelease supervision pursuant to Title
2 2.05 (commencing with Section 3450).

3 (k) (1) Except as provided in paragraph (2), the Department of
4 Corrections and Rehabilitation shall be the agency primarily
5 responsible for, and shall have control over, the program, resources,
6 and staff implementing the Law Enforcement Automated Data
7 System (LEADS) in conformance with subdivision (e). County
8 agencies supervising inmates released to postrelease supervision
9 pursuant to Title 2.05 (commencing with Section 3450) shall
10 provide any information requested by the department to ensure
11 the availability of accurate information regarding inmates released
12 from state prison. This information may include the issuance of
13 warrants, revocations, or the termination of postrelease supervision.
14 *On or before August 1, 2011, county agencies designated to*
15 *supervise inmates released to postrelease supervision shall notify*
16 *the department that the county agencies have been designated as*
17 *the local entity responsible for providing that supervision.*

18 (2) Notwithstanding paragraph (1), the Department of Justice
19 shall be the agency primarily responsible for the proper release of
20 information under LEADS that relates to fingerprint cards.

21 *SEC. 43. Section 3015 of the Penal Code is amended to read:*

22 3015. (a) The Secretary of the Department of Corrections and
23 Rehabilitation shall establish a parole reentry accountability
24 program for parolees who have been sentenced to a term of
25 imprisonment under Section 1170. The purpose of the program is
26 to promote public safety, hold parolees accountable, and reduce
27 recidivism.

28 (b) The department shall employ a parole violation
29 decisionmaking instrument to determine the most appropriate
30 sanctions for these parolees who violate their conditions of parole.

31 (1) For purposes of this subdivision, a “parole violation
32 decisionmaking instrument” means a standardized tool that
33 provides ranges of appropriate sanctions for parole violators given
34 relevant case factors, including, but not limited to, offense history,
35 risk of reoffense based on a validated risk assessment tool, need
36 for treatment services, the number and type of current and prior
37 parole violations, and other relevant statutory requirements.

38 (2) The department shall adopt emergency regulations to
39 implement this section initially, and shall subsequently adopt

1 permanent regulations that make appropriate changes in policies
2 and procedures to reflect the intent of this section.

3 (c) The secretary shall have the discretion to establish additional
4 tools and standards to further the purposes of this section.

5 ~~(d) Parolees subject to this program with a history of substance~~
6 ~~abuse or mental illness who violate their conditions of parole may~~
7 ~~be referred by the department to a reentry court program established~~
8 ~~pursuant to subdivision (e).~~

9 *(d) Parolees who have been sentenced to a term of imprisonment*
10 *under Section 1170 and offenders subject to postrelease supervision*
11 *as established in the Postrelease Community Supervision Act of*
12 *2011 with a history of substance abuse or mental illness who*
13 *violate their conditions of parole or postrelease supervision are*
14 *eligible to participate in a reentry court program established*
15 *pursuant to subdivision (e).*

16 (1) A parolee or offender subject to postrelease supervision
17 who is deemed eligible by the department or local supervising
18 agency to participate in a reentry court program may be referred
19 by his or her parole officer, local supervising agent, or a revocation
20 hearing officer for participation in the program. The reentry court
21 shall have the discretion to determine if the parolee or offender
22 subject to postrelease supervision will be admitted into the program
23 and, in making this determination, shall consider, among other
24 factors, whether the ~~parolee~~ offender will benefit from the program,
25 the risk the ~~parolee~~ offender poses to the community, and the
26 history and nature of the committing offense.

27 (2) If the reentry court determines that the parolee or offender
28 subject to postrelease supervision will be admitted into the
29 program, the court, with the assistance of the ~~parolee's~~
30 *participant's* parole or local supervising agent, shall have exclusive
31 authority to determine the appropriate conditions of parole or
32 postrelease supervision, order rehabilitation and treatment services
33 to be provided, determine appropriate incentives, order appropriate
34 sanctions, lift parole holds, and hear and determine appropriate
35 responses to alleged violations, unless and until the court terminates
36 the ~~parolee's participant's~~ enrollment in the program authorized
37 by subdivision (e).

38 (3) A reentry court program plan shall include, but not be limited
39 to, all of the following:

1 (A) The anticipated number of parolees *and offenders subject*
2 *to postrelease supervision* who will be served by the program.

3 (B) The method by which each parolee *or offender subject to*
4 *postrelease supervision* who is eligible for the program shall be
5 referred to the program.

6 (C) The method by which each parolee *or offender subject to*
7 *postrelease supervision* is to be individually assessed as to his or
8 her treatment and rehabilitative needs and the level of community
9 and *reentry* court monitoring required by the program.

10 (D) The criteria for continued participation in, and successful
11 completion of, the program, as well as the criteria for termination
12 from the program and referral to the ~~parole~~ revocation process
13 *pursuant to Section 3000.08 for parolees and Section 3454 for*
14 *offenders subject to postrelease supervision.*

15 (E) A description of how the program shall be administered
16 effectively.

17 (F) An established method by which to report outcome measures
18 for program participants.

19 (G) The development of a program team, as well as a plan for
20 ongoing training in utilizing the drug court and collaborative court
21 nonadversarial model.

22 (e) (1) Subject to funding made available for this purpose, the
23 secretary shall enter into a memorandum of understanding with
24 the Administrative Office of the Courts for the purpose of the
25 establishment and operation of ~~parolee~~ reentry court programs.
26 Only courts with existing drug and mental health courts or courts
27 that otherwise demonstrate leadership and a commitment to conduct
28 the reentry court authorized by this section may participate in this
29 program. These ~~parolee~~ reentry court programs shall, with the
30 assistance of the ~~parolee's~~ *participant's* parole *or postrelease*
31 *supervision* agent, direct the treatment and supervision of ~~parolees~~
32 *participants* who would benefit from community drug treatment
33 or mental health treatment. The purpose of reentry court programs
34 created pursuant to this subdivision is to promote public safety,
35 hold ~~parolees~~ *offenders* accountable, and reduce recidivism. The
36 program shall include key components of drug and collaborative
37 courts using a highly structured model, including close supervision
38 and monitoring, dedicated calendars, nonadversarial proceedings,
39 frequent drug and alcohol testing, and close collaboration between
40 the respective entities involved to improve the ~~parolee's~~

1 *participant's* likelihood of success on parole *or postrelease*
2 *supervision.*

3 (2) The Judicial Council, in collaboration with the department,
4 shall design and perform an evaluation of the program that will
5 assess its effectiveness in reducing recidivism among parolees *and*
6 *offenders subject to postrelease supervision* and reducing ~~parole~~
7 revocations.

8 (3) The Judicial Council, in collaboration with the department,
9 shall submit a final report of the findings from its evaluation of
10 the program to the Legislature and the Governor no later than 3
11 years after the establishment of a reentry court pursuant to this
12 section.

13 *SEC. 44. Section 3056 of the Penal Code, as amended by*
14 *Section 474 of Chapter 15 of the Statutes of 2011, is amended to*
15 *read:*

16 3056. (a) Prisoners on parole shall remain under the ~~legal~~
17 ~~custody~~ *supervision* of the department but shall not be returned to
18 prison except as provided in subdivision (b). *Except as provided*
19 *by subdivision (c) of Section 3000.09, upon revocation of parole,*
20 *a parolee may be housed in a county jail for a maximum of 180*
21 *days. When housed in county facilities, parolees shall be under*
22 *the legal custody and jurisdiction of local county facilities. When*
23 *released from custody, parolees shall be returned to the parole*
24 *supervision of the department for the duration of parole.*

25 (b) Inmates paroled pursuant to Section 3000.1 may be returned
26 to prison following the revocation of parole by *the Board of Parole*
27 *Hearings until July 1, 2013, and thereafter by a court* pursuant to
28 Section 3000.08.

29 *SEC. 45. Section 3057 of the Penal Code, as amended by*
30 *Section 476 of Chapter 15 of the Statutes of 2011, is amended to*
31 *read:*

32 3057. (a) Confinement pursuant to a revocation of parole in
33 the absence of a new conviction and commitment to prison under
34 other provisions of law, shall not exceed 12 months, except as
35 provided in subdivision (c).

36 (b) Upon completion of confinement pursuant to parole
37 revocation without a new commitment to prison, the inmate shall
38 be released on parole for a period which shall not extend beyond
39 that portion of the maximum statutory period of parole specified

1 by Section 3000 which was unexpired at the time of each
2 revocation.

3 (c) Notwithstanding the limitations in subdivision (a) and in
4 Section 3060.5 upon confinement pursuant to a parole revocation,
5 the parole authority may extend the confinement pursuant to parole
6 revocation for a maximum of an additional 12 months for
7 subsequent acts of misconduct committed by the parolee while
8 confined pursuant to that parole revocation. Upon a finding of
9 good cause to believe that a parolee has committed a subsequent
10 act of misconduct and utilizing procedures governing parole
11 revocation proceedings, the parole authority may extend the period
12 of confinement pursuant to parole revocation as follows: (1) not
13 more than 180 days for an act punishable as a felony, whether or
14 not prosecution is undertaken, (2) not more than 90 days for an
15 act punishable as a misdemeanor, whether or not prosecution is
16 undertaken, and (3) not more than 30 days for an act defined as a
17 serious disciplinary offense pursuant to subdivision (a) of Section
18 2932.

19 (d) (1) Except for parolees specified in paragraph (2), any
20 revocation period imposed under subdivision (a) may be reduced
21 in the same manner and to the same extent as a term of
22 imprisonment may be reduced by worktime credits under Section
23 2933. Worktime credit must be earned and may be forfeited
24 pursuant to the provisions of Section 2932.

25 Worktime credit forfeited shall not be restored.

26 (2) The following parolees shall not be eligible for credit under
27 this subdivision:

28 (A) Parolees who are sentenced under Section 1168 with a
29 maximum term of life imprisonment.

30 (B) Parolees who violated a condition of parole relating to
31 association with specified persons, entering prohibited areas,
32 attendance at parole outpatient clinics, or psychiatric attention.

33 (C) Parolees who were revoked for conduct described in, or that
34 could be prosecuted under any of the following sections, whether
35 or not prosecution is undertaken: Section 189, Section 191.5,
36 subdivision (a) of Section 192, subdivision (a) of Section 192.5,
37 Section 203, 207, 211, 215, 217.1, or 220, subdivision (b) of
38 Section 241, Section 244, paragraph (1) or (2) of subdivision (a)
39 of Section 245, paragraph (2) or (6) of subdivision (a) of Section
40 261, paragraph (1) or (4) of subdivision (a) of Section 262, Section

1 264.1, subdivision (c) or (d) of Section 286, Section 288,
2 subdivision (c) or (d) of Section 288a, subdivision (a) of Section
3 289, 347, or 404, subdivision (a) of Section 451, Section 12022,
4 12022.5, 12022.53, 12022.7, 12022.8, or 25400, Chapter 2
5 (commencing with Section 29800) of Division 9 of Title 4 of Part
6 6, any provision listed in Section 16590, or Section 664 for any
7 attempt to engage in conduct described in or that could be
8 prosecuted under any of the above-mentioned sections.

9 (D) Parolees who were revoked for any reason if they had been
10 granted parole after conviction of any of the offenses specified in
11 subparagraph (C).

12 (E) Parolees who the parole authority finds at a revocation
13 hearing to be unsuitable for reduction of the period of confinement
14 because of the circumstances and gravity of the parole violation,
15 or because of prior criminal history.

16 (e) Commencing ~~July~~ October 1, 2011, this section shall only
17 apply to inmates sentenced to a term of life imprisonment.

18 *SEC. 46. Section 3060 is added to the Penal Code, to read:*

19 *3060. (a) The parole authority shall have full power to suspend*
20 *or revoke any parole. The written order of the parole authority*
21 *shall be a sufficient warrant for any peace or prison officer to*
22 *return to actual custody any conditionally released or paroled*
23 *prisoner.*

24 *(b) This section shall remain in effect only until July 1, 2013,*
25 *and as of that date is repealed, unless a later enacted statute, that*
26 *is enacted before July 1, 2013, deletes or extends that date.*

27 *SEC. 46.5. Section 3073.1 is added to the Penal Code, to read:*

28 *3073.1. Counties are hereby authorized to contract with the*
29 *Department of Corrections and Rehabilitation in order to obtain*
30 *day treatment and crisis care services for inmates with mental*
31 *health problems who are released on postrelease community*
32 *supervision with mental health problems.*

33 *SEC. 47. Section 3451 of the Penal Code is amended to read:*

34 *3451. (a) Notwithstanding any other law and except for persons*
35 *serving a prison term for any crime described in subdivision (b),*
36 *all persons released from prison on and after ~~July~~ October 1, 2011,*
37 *or, whose sentence has been deemed served pursuant to Section*
38 *2900.5 after serving a prison term for a felony shall, upon release*
39 *from prison and for a period not exceeding three years immediately*
40 *following release, be subject to community supervision provided*

1 by a county agency designated by each county's board of
2 supervisors which is consistent with evidence-based practices,
3 including, but not limited to, supervision policies, procedures,
4 programs, and practices demonstrated by scientific research to
5 reduce recidivism among individuals under postrelease supervision.

6 (b) This section shall not apply to any person released from
7 prison after having served a prison term for any of the following:

8 (1) A serious felony described in subdivision (c) of Section
9 1192.7.

10 (2) A violent felony described in subdivision (c) of Section
11 667.5.

12 (3) A crime for which the person was sentenced pursuant to
13 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
14 of subdivision (c) of Section 1170.12.

15 (4) Any crime where the person eligible for release from prison
16 is classified as a High Risk Sex Offender.

17 (5) *Any crime where the person is required, as a condition of*
18 *parole, to undergo treatment by the State Department of Mental*
19 *Health pursuant to Section 2962.*

20 (c) (1) Postrelease supervision under this title shall be
21 implemented by a county agency according to a postrelease strategy
22 designated by each county's board of supervisors.

23 (2) The Department of Corrections and Rehabilitation shall
24 inform every prisoner subject to the provisions of this title, upon
25 release from state prison, of the requirements of this title and of
26 his or her responsibility to report to the county agency responsible
27 for serving that inmate. The department shall also inform persons
28 serving a term of parole for a felony offense who are subject to
29 this section of the requirements of this title and of his or her
30 responsibility to report to the county agency responsible for serving
31 that parolee. Thirty days prior to the release of any person subject
32 to postrelease supervision by a county, the department shall notify
33 the county of all information that would otherwise be required for
34 parolees under subdivision (e) of Section 3003.

35 *SEC. 48. Section 3453 of the Penal Code is amended to read:*

36 3453. A postrelease community supervision agreement shall
37 include the following conditions:

38 (a) The person shall sign and agree to the conditions of release.

39 (b) The person shall obey all laws.

1 (c) The person shall report to the supervising county agency
2 within two working days of release from custody.

3 (d) The person shall follow the directives and instructions of
4 the supervising county agency.

5 (e) The person shall report to the supervising county agency as
6 directed by that agency.

7 (f) The person, and his or her residence and possessions, shall
8 be subject to search at any time of the day or night, with or without
9 a warrant, by an agent of the supervising county agency or by a
10 peace officer.

11 (g) The person shall waive extradition if found outside the state.

12 (h) The person shall inform the supervising county agency of
13 the person's place of residence, employment, education, or training.

14 (i) (1) The person shall inform the supervising county agency
15 of any pending or anticipated changes in residence, employment,
16 education, or training.

17 (2) If the person enters into new employment, he or she shall
18 inform the supervising county agency of the new employment
19 within three business days of that entry.

20 (j) The person shall immediately inform the supervising county
21 agency if he or she is arrested or receives a citation.

22 (k) The person shall obtain the permission of the supervising
23 county agency to travel more than 50 miles from the person's place
24 of residence.

25 (l) The person shall obtain a travel pass from the supervising
26 county agency before he or she may leave the county or state for
27 more than two days.

28 (m) The person shall not be in the presence of a firearm or
29 ammunition, or any item that appears to be a firearm or
30 ammunition.

31 (n) The person shall not possess, use, or have access to any
32 weapon listed in Section 12020, 16140, subdivision (c) of Section
33 16170, Section 16220, 16260, 16320, 16330, or 16340, subdivision
34 (b) of Section 16460, Section 16470, subdivision (f) of Section
35 16520, or Section 16570, 16740, 16760, 16830, 16920, 16930,
36 16940, 17090, 17125, 17160, 17170, 17180, 17190, 17200, 17270,
37 17280, 17330, 17350, 17360, 17700, 17705, 17710, 17715, 17720,
38 17725, 17730, 17735, 17740, 17745, 19100, 19200, 19205, 20200,
39 20310, 20410, 20510, 20611, 20710, 20910, 21110, 21310, 21810,
40 22010, 22015, 22210, 22215, 22410, 32430, 24310, 24410, 24510,

1 24610, 24680, 24710, 30210, 30215, 31500, 32310, 32400, 32405,
2 32410, 32415, 32420, 32425, 32435, 32440, 32445, 32450, 32900,
3 33215, 33220, 33225, or 33600.

4 (o) (1) Except as provided in paragraph (2) and subdivision
5 (p), the person shall not possess a knife with a blade longer than
6 two inches.

7 (2) The person may possess a kitchen knife with a blade longer
8 than two inches if the knife is used and kept only in the kitchen of
9 the person's residence.

10 (p) The person may use a knife with a blade longer than two
11 inches, if the use is required for that person's employment, the use
12 has been approved in a document issued by the supervising county
13 agency, and the person possesses the document of approval at all
14 times and makes it available for inspection.

15 (q) The person agrees to waive any right to a court hearing prior
16 to the imposition of a period of "flash incarceration" in a county
17 jail of not more than ~~seven~~ 10 consecutive days, ~~and not more than~~
18 ~~14 aggregate days~~, for any violation of his or her postrelease
19 supervision conditions.

20 (r) The person agrees to participate in rehabilitation
21 programming as recommended by the supervising county agency.

22 SEC. 49. Section 3454 of the Penal Code is amended to read:

23 3454. (a) Each supervising county agency, as established by
24 the county board of supervisors pursuant to subdivision (a) of
25 Section 3451, shall establish a review process for assessing and
26 refining a person's program of postrelease supervision. Any
27 additional postrelease supervision conditions shall be reasonably
28 related to the underlying offense for which the offender spent time
29 in prison, *or to the offender's risk of recidivism*, and the offender's
30 criminal history, and be otherwise consistent with law.

31 (b) Each county agency responsible for postrelease supervision,
32 as established by the county board of supervisors pursuant to
33 subdivision (a) of Section 3451, may determine additional
34 appropriate conditions of supervision ~~consistent with those listed~~
35 in Section 3453 *consistent with public safety*, order the provision
36 of appropriate rehabilitation and treatment services, determine
37 appropriate incentives, and determine and order appropriate
38 responses to alleged violations, which can include, but shall not
39 be limited to, immediate, structured, and ~~graduated~~ immediate
40 sanctions up to and including ~~imprisonment~~ *referral to a reentry*

1 court pursuant to Section 3015, or flash incarceration in a county
2 jail. Periods of flash incarceration are encouraged as one method
3 of punishment for violations of an offender's condition of
4 postrelease supervision.

5 (c) "Flash incarceration" is a period of detention in county jail
6 due to a violation of an offender's conditions of postrelease
7 supervision. The length of the detention period can range between
8 one and 10 consecutive days. Flash incarceration is a tool that
9 may be used by each county agency responsible for postrelease
10 supervision. Shorter, but if necessary more frequent, periods of
11 detention for violations of an offender's postrelease supervision
12 conditions shall appropriately punish an offender while preventing
13 the disruption in a work or home establishment that typically arises
14 from longer term revocations.

15 SEC. 50. Section 3455 of the Penal Code is amended to read:

16 3455. (a) ~~The court shall establish a process to determine~~
17 ~~violations of conditions of postrelease supervision. If the~~
18 ~~supervising county agency has determined, following application~~
19 ~~of its assessment processes, that intermediate sanctions as~~
20 ~~authorized in subdivision (b) of Section 3454 are not appropriate,~~
21 ~~the supervising county agency shall petition the revocation hearing~~
22 ~~officer appointed pursuant to Section 71622.5 of the Government~~
23 ~~Code to revoke and terminate postrelease supervision. At any point~~
24 ~~during the process initiated pursuant to this section, a person may~~
25 ~~waive, in writing, his or her right to counsel, admit the parole~~
26 ~~violation, waive a court hearing, and accept the proposed parole~~
27 ~~modification. The petition shall include a written report that~~
28 ~~contains additional information regarding the petition, including~~
29 ~~the relevant terms and conditions of postrelease supervision, the~~
30 ~~circumstances of the alleged underlying violation, the history and~~
31 ~~background of the violator, and any recommendations. The Judicial~~
32 ~~Council shall adopt forms and rules of court to establish uniform~~
33 ~~statewide procedures to implement this subdivision, including the~~
34 ~~minimum contents of supervision agency reports. Upon a finding~~
35 ~~that the person has violated the conditions of postrelease~~
36 ~~supervision, the court revocation hearing officer shall have~~
37 ~~authority to do all of the following:~~

38 ~~(1) Impose additional conditions of supervision and sanctions~~
39 ~~without ordering a custodial sanction.~~

1 ~~(2) Modify the person's supervision with additional conditions~~
2 ~~and sanctions.~~

3 ~~(3) Revoke and terminate supervision where the person has been~~
4 ~~convicted of a new misdemeanor or felony.~~

5 *(1) Return the person to parole supervision with modifications*
6 *of conditions, if appropriate, including a period of incarceration*
7 *in county jail.*

8 *(2) Revoke parole and order the person to confinement in the*
9 *county jail.*

10 *(3) Refer the person to a reentry court pursuant to Section 3015*
11 *or other evidence-based program in the court's discretion.*

12 ~~(b) Confinement pursuant to a violation of conditions of~~
13 ~~postrelease supervision paragraphs (1) and (2) of subdivision (a)~~
14 ~~shall not exceed a period of 12 months 180 days in the county jail.~~

15 ~~(c) Periods of "flash incarceration," as defined in subdivision~~
16 ~~(e), are encouraged as one method of punishment for violations of~~
17 ~~an offender's conditions of postrelease supervision.~~

18 ~~(d)~~

19 *(c) In no case shall a person be under supervision or in custody*
20 *pursuant to this title on or after three years from the date of the*
21 *person's initial entry onto postrelease supervision.*

22 ~~(e) "Flash incarceration" is a period of detention in county jail~~
23 ~~due to a violation of an offender's conditions of postrelease~~
24 ~~supervision. The length of the detention period can range between~~
25 ~~one and 14 consecutive days. Flash incarceration is a tool that may~~
26 ~~be used by each county agency responsible for postrelease~~
27 ~~supervision. Shorter, but if necessary more frequent, periods of~~
28 ~~detention for violations of an offender's postrelease supervision~~
29 ~~conditions shall appropriately punish an offender while preventing~~
30 ~~the disruption in a work or home establishment that typically arises~~
31 ~~from longer term revocations.~~

32 *SEC. 51. Section 3456 of the Penal Code is amended to read:*

33 *3456. The county agency responsible for postrelease*
34 *supervision, as established by the county board of supervisors*
35 *pursuant to subdivision (a) of Section 3451, shall maintain*
36 *postrelease supervision over a person under postrelease supervision*
37 *pursuant to this title until one of the following events occurs:*

38 *(a) The person has been subject to postrelease supervision*
39 *pursuant to this title for three years at which time the offender shall*
40 *be immediately discharged from postrelease supervision.*

1 (b) Any person on postrelease supervision for six consecutive
2 months with no violations of his or her conditions of postrelease
3 supervision may be considered for immediate discharge ~~upon~~
4 ~~recommendation~~ by the supervising county agency to the court,
5 and that discharge is granted.

6 (c) *The person who has been on postrelease supervision*
7 *continuously for one year with no violations of his or her conditions*
8 *of postrelease supervision shall be discharged from supervision*
9 *within 30 days.*

10 (e)
11 (d) Jurisdiction over the person has been terminated by operation
12 of law.

13 (d)
14 (e) Jurisdiction is transferred to another supervising county
15 agency.

16 (e)
17 (f) Jurisdiction is terminated by the ~~court~~ *revocation hearing*
18 *officer upon a motion petition to revoke and terminate supervision*
19 *by the supervising county agency.*

20 *SEC. 51.5. Section 4011.10 of the Penal Code is amended to*
21 *read:*

22 4011.10. (a) It is the intent of the Legislature in enacting this
23 section to provide county sheriffs, chiefs of police, and directors
24 or administrators of local detention facilities with an incentive to
25 not engage in practices designed to avoid payment of legitimate
26 ~~emergency~~ health care costs for the treatment or examination of
27 persons lawfully in their custody, and to promptly pay those costs
28 as requested by the provider of services. Further, it is the intent of
29 the Legislature to encourage county sheriffs, chiefs of police, and
30 directors or administrators of local detention facilities to bargain
31 in good faith when negotiating a service contract with hospitals
32 providing ~~emergency~~ health care services.

33 (b) Notwithstanding any other provision of law, a county sheriff,
34 police chief or other public agency that contracts for ~~emergency~~
35 health *care* services, may contract with providers of ~~emergency~~
36 health care services for care to local law enforcement patients.
37 Hospitals that do not contract with the county sheriff, police chief,
38 or other public agency that contracts for ~~emergency~~ health care
39 services shall provide ~~emergency~~ health care services to local law
40 enforcement patients at a rate equal to 110 percent of the hospital's

1 actual costs according to the most recent Hospital Annual Financial
2 Data report issued by the Office of Statewide Health Planning and
3 Development, as calculated using a cost-to-charge ratio.

4 (c) A county sheriff or police chief shall not request the release
5 of an inmate from custody for the purpose of allowing the inmate
6 to seek medical care at a hospital, and then immediately rearrest
7 the same individual upon discharge from the hospital, unless the
8 hospital determines this action would enable it to bill and collect
9 from a third-party payment source.

10 (d) The California Hospital Association, the University of
11 California, the California State Sheriffs' Association and the
12 California Police Chiefs' Association shall, immediately upon
13 enactment of this section, convene the Inmate Health Care and
14 Medical Provider Fair Pricing Working Group. The working group
15 shall consist of at least six members from the California Hospital
16 Association and the University of California, and six members
17 from the California State Sheriffs' Association and the California
18 Police Chiefs' Association. Each organization should give great
19 weight and consideration to appointing members of the working
20 group with diverse geographic and demographic interests. The
21 working group shall meet as needed to identify and resolve industry
22 issues that create fiscal barriers to timely and affordable emergency
23 inmate health care. In addition, the working group shall address
24 issues including, but not limited to, inmates being admitted for
25 care and later rearrested and any other fiscal barriers to hospitals
26 being able to enter into fair market contracts with public agencies.
27 To the extent that the rate provisions of this statute result in a
28 disproportionate share of local law enforcement patients being
29 treated at any one hospital or system of hospitals, the working
30 group shall address this issue. No reimbursement is required under
31 this provision.

32 (e) Nothing in this section shall require or encourage a hospital
33 or public agency to replace any existing arrangements that any
34 city police chief, county sheriff, or other public agency that
35 contracts for emergency health care services for care to local law
36 enforcement patients.

37 (f) An entity that provides ambulance or any other emergency
38 or nonemergency response service to a sheriff or police chief, and
39 that does not contract with their departments for that service, shall
40 be reimbursed for the service at the rate established by Medicare.

Neither the sheriff nor the police chief shall reimburse a provider of any of these services that their department has not contracted with at a rate that exceeds the provider's reasonable and allowable costs, regardless of whether the provider is located within or outside of California.

(g) For the purposes of this section, "reasonable and allowable costs" shall be defined in accordance with Part 413 of Title 42 of the Code of Federal Regulations and federal Centers for Medicare and Medicaid Services Publication Numbers 15.1 and 15.2.

(h) For purposes of this section, in those counties in which the sheriff does not administer a jail facility, a director or administrator of a local department of corrections established pursuant to Section 23013 of the Government Code is the person who may contract for services provided to jail inmates in the facilities he or she administers in those counties.

~~(i) This section is repealed as of January 1, 2014.~~

SEC. 52. Section 4016.5 of the Penal Code, as amended by Section 481 of Chapter 15 of the Statutes of 2011, is amended to read:

4016.5. A city or county shall be reimbursed by the Department of Corrections and Rehabilitation for costs incurred resulting from the detention of a state prisoner or a person sentenced or referred to the state prison when the detention meets any of the following conditions:

(a) (1) The detention results from a new commitment, or a referral pursuant to Section 1203.03, once the abstract of judgment has been completed, the department's intake control unit has been notified by the county that the prisoner is ready to be transported pursuant to Section 1216, and the department is unable to accept delivery of the prisoner. The reimbursement shall be provided for each day starting on the day following the fifth working day after the date of notification by the county, if the prisoner remains ready to be delivered and the department is unable to receive the prisoner. If a county delivers or attempts to deliver a person to the department without the prior notification required by this paragraph, the date of the delivery or attempted delivery shall be recognized as the notification date pursuant to this paragraph. The notification and verification required by the county for prisoners ready to be transported, and reimbursement provided to the county

1 for prisoners that the department is unable to receive, shall be made
2 pursuant to procedures established by the department.

3 (2) A city or county shall be reimbursed by the department from
4 funds appropriated in Item 5240-001-0001 of the annual Budget
5 Act for costs incurred pursuant to this subdivision.

6 (3) The reimbursement required by this section shall be
7 expended for maintenance, upkeep, and improvement of jail
8 conditions, facilities, and services. Before the county is reimbursed
9 by the department, the total amount of all charges against that
10 county authorized by law for services rendered by the department
11 shall be first deducted from the gross amount of reimbursement
12 authorized by this section. The net reimbursement shall be
13 calculated and paid monthly by the department. The department
14 shall withhold all or part of the net reimbursement to a county
15 whose jail facility or facilities do not conform to minimum
16 standards for local detention facilities as authorized by Section
17 6030 only if the county is failing to make reasonable efforts to
18 correct differences, with consideration given to the resources
19 available for those purposes.

20 (4) “Costs incurred resulting from the detention,” as used in this
21 section, shall include the same cost factors as are utilized by the
22 Department of Corrections and Rehabilitation in determining the
23 cost of prisoner care in state correctional facilities.

24 (b) No city, county, or other jurisdiction may file, and the state
25 may not reimburse, a claim pursuant to this section that is presented
26 to the Department of Corrections and Rehabilitation or to any other
27 agency or department of the state more than six months after the
28 close of the month in which the costs were incurred.

29 (c) The changes to this section made by the act that added this
30 subdivision shall be effective on ~~July~~ October 1, 2011.

31 *SEC. 53. Section 4019 of the Penal Code, as amended by*
32 *Section 482 of Chapter 15 of the Statutes of 2011, is amended to*
33 *read:*

34 4019. (a) The provisions of this section shall apply in all of
35 the following cases:

36 (1) When a prisoner is confined in or committed to a county
37 jail, industrial farm, or road camp, or any city jail, industrial farm,
38 or road camp, including all days of custody from the date of arrest
39 to the date on which the serving of the sentence commences, under

1 a judgment of imprisonment, or a fine and imprisonment until the
2 fine is paid in a criminal action or proceeding.

3 (2) When a prisoner is confined in or committed to the county
4 jail, industrial farm, or road camp or any city jail, industrial farm,
5 or road camp as a condition of probation after suspension of
6 imposition of a sentence or suspension of execution of sentence,
7 in a criminal action or proceeding.

8 (3) When a prisoner is confined in or committed to the county
9 jail, industrial farm, or road camp or any city jail, industrial farm,
10 or road camp for a definite period of time for contempt pursuant
11 to a proceeding, other than a criminal action or proceeding.

12 (4) When a prisoner is confined in a county jail, industrial farm,
13 or road camp, or a city jail, industrial farm, or road camp following
14 arrest and prior to the imposition of sentence for a felony
15 conviction.

16 (5) *When a prisoner is confined in a county jail, industrial farm,*
17 *or road camp, or a city jail, industrial farm, or road camp as part*
18 *of custodial sanction imposed following a violation of postrelease*
19 *community supervision or parole.*

20 (b) Subject to the provisions of subdivision (d), for each four-day
21 period in which a prisoner is confined in or committed to a facility
22 as specified in this section, one day shall be deducted from his or
23 her period of confinement unless it appears by the record that the
24 prisoner has refused to satisfactorily perform labor as assigned by
25 the sheriff, chief of police, or superintendent of an industrial farm
26 or road camp.

27 (c) For each four-day period in which a prisoner is confined in
28 or committed to a facility as specified in this section, one day shall
29 be deducted from his or her period of confinement unless it appears
30 by the record that the prisoner has not satisfactorily complied with
31 the reasonable rules and regulations established by the sheriff,
32 chief of police, or superintendent of an industrial farm or road
33 camp.

34 (d) Nothing in this section shall be construed to require the
35 sheriff, chief of police, or superintendent of an industrial farm or
36 road camp to assign labor to a prisoner if it appears from the record
37 that the prisoner has refused to satisfactorily perform labor as
38 assigned or that the prisoner has not satisfactorily complied with
39 the reasonable rules and regulations of the sheriff, chief of police,
40 or superintendent of any industrial farm or road camp.

1 (e) No deduction may be made under this section unless the
2 person is committed for a period of four days or longer.

3 (f) It is the intent of the Legislature that if all days are earned
4 under this section, a term of four days will be deemed to have been
5 served for every two days spent in actual custody.

6 (g) The changes in this section as enacted by the act that added
7 this subdivision shall apply to prisoners who are confined to a
8 county jail, city jail, industrial farm, or road camp for a crime
9 committed on or after the effective date of that act.

10 (h) The changes to this section enacted by the act that added
11 this subdivision shall apply prospectively and shall apply to
12 prisoners who are confined to a county jail, city jail, industrial
13 farm, or road camp for a crime committed on or after ~~July~~ *October*
14 1, 2011. Any days earned by a prisoner prior to ~~July~~ *October* 1,
15 2011, shall be calculated at the rate required by the prior law.

16 *SEC. 53.5. Section 4115.55 is added to the Penal Code, to*
17 *read:*

18 *4115.55. (a) Upon agreement with the sheriff or director of*
19 *the county department of corrections, a board of supervisors may*
20 *enter into a contract with other public agencies to provide housing*
21 *for inmates sentenced to county jail in community correctional*
22 *facilities created pursuant to Chapter 9.5 (commencing with*
23 *Section 6250) of Title 7.*

24 *(b) This section shall remain in effect only until January 1, 2015,*
25 *and as of that date is repealed, unless a later enacted statute, that*
26 *is enacted before that date, deletes or extends that date.*

27 *SEC. 54. Section 11418 of the Penal Code, as amended by*
28 *Section 499 of Chapter 15 of the Statutes of 2011, is amended to*
29 *read:*

30 11418. (a) (1) Any person, without lawful authority, who
31 possesses, develops, manufactures, produces, transfers, acquires,
32 or retains any weapon of mass destruction, shall be punished by
33 imprisonment pursuant to subdivision (h) of Section 1170 for 4,
34 8, or 12 years.

35 (2) Any person who commits a violation of paragraph (1) and
36 who has been previously convicted of Section 11411, 11412,
37 11413, 11418, 11418.1, 11418.5, 11419, 11460, 12303.1, 12303.2,
38 or 12303.3 shall be punished by imprisonment pursuant to
39 subdivision (h) of Section 1170 for 5, 10, or 15 years.

1 (b) (1) Any person who uses or directly employs against another
2 person a weapon of mass destruction in a form that may cause
3 widespread, disabling illness or injury in human beings shall be
4 punished by imprisonment in the state prison for life.

5 (2) Any person who uses or directly employs against another
6 person a weapon of mass destruction in a form that may cause
7 widespread great bodily injury or death and causes the death of
8 any human being shall be punished by imprisonment in the state
9 prison for life without the possibility of parole. Nothing in this
10 paragraph shall prevent punishment instead under Section 190.2.

11 (3) Any person who uses a weapon of mass destruction in a
12 form that may cause widespread damage to or disruption of the
13 food supply or “source of drinking water” as defined in subdivision
14 (d) of Section 25249.11 of the Health and Safety Code shall be
15 punished by imprisonment ~~pursuant to subdivision (h) of Section~~
16 ~~1170 in the state prison~~ for 5, 8, or 12 years and by a fine of not
17 more than one hundred thousand dollars (\$100,000).

18 (4) Any person who maliciously uses against animals, crops,
19 or seed and seed stock, a weapon of mass destruction in a form
20 that may cause widespread damage to or substantial diminution
21 in the value of stock animals or crops, including seeds used for
22 crops or product of the crops, shall be punished by imprisonment
23 ~~pursuant to subdivision (h) of Section 1170 in the state prison~~ for
24 4, 8, or 12 years and by a fine of not more than one hundred
25 thousand dollars (\$100,000).

26 (c) Any person who uses a weapon of mass destruction in a
27 form that may cause widespread and significant damage to public
28 natural resources, including coastal waterways and beaches, public
29 parkland, surface waters, ground water, and wildlife, shall be
30 punished by imprisonment ~~pursuant to subdivision (h) of Section~~
31 ~~1170 in the state prison~~ for three, four, or six years.

32 (d) (1) Any person who uses recombinant technology or any
33 other biological advance to create new pathogens or more virulent
34 forms of existing pathogens for use in any crime described in
35 subdivision (b) shall be punished by imprisonment ~~pursuant to~~
36 ~~subdivision (h) of Section 1170 in the state prison~~ for 4, 8, or 12
37 years and by a fine of not more than two hundred fifty thousand
38 dollars (\$250,000).

39 (2) Any person who uses recombinant technology or any other
40 biological advance to create new pathogens or more virulent forms

1 of existing pathogens for use in any crime described in subdivision
2 (c) shall be punished by imprisonment ~~pursuant to subdivision (h)~~
3 ~~of Section 1170 in the state prison~~ for three, six, or nine years and
4 by a fine of not more than two hundred fifty thousand dollars
5 (\$250,000).

6 (e) Nothing in this section shall be construed to prevent
7 punishment instead pursuant to any other provision of law that
8 imposes a greater or more severe punishment.

9 *SEC. 55. Section 11418 of the Penal Code, as amended by*
10 *Section 500 of Chapter 15 of the Statutes of 2011, is amended to*
11 *read:*

12 11418. (a) (1) Any person, without lawful authority, who
13 possesses, develops, manufactures, produces, transfers, acquires,
14 or retains any weapon of mass destruction, shall be punished by
15 imprisonment pursuant to subdivision (h) of Section 1170 for 4,
16 8, or 12 years.

17 (2) Any person who commits a violation of paragraph (1) and
18 who has been previously convicted of Section 11411, 11412,
19 11413, 11418, 11418.1, 11418.5, 11419, 11460, 18715, 18725, or
20 18740 shall be punished by imprisonment pursuant to subdivision
21 (h) of Section 1170 for 5, 10, or 15 years.

22 (b) (1) Any person who uses or directly employs against another
23 person a weapon of mass destruction in a form that may cause
24 widespread, disabling illness or injury in human beings shall be
25 punished by imprisonment in the state prison for life.

26 (2) Any person who uses or directly employs against another
27 person a weapon of mass destruction in a form that may cause
28 widespread great bodily injury or death and causes the death of
29 any human being shall be punished by imprisonment in the state
30 prison for life without the possibility of parole. Nothing in this
31 paragraph shall prevent punishment instead under Section 190.2.

32 (3) Any person who uses a weapon of mass destruction in a
33 form that may cause widespread damage to or disruption of the
34 food supply or “source of drinking water” as defined in subdivision
35 (d) of Section 25249.11 of the Health and Safety Code shall be
36 punished by imprisonment ~~pursuant to subdivision (h) of Section~~
37 ~~1170 in the state prison~~ for 5, 8, or 12 years and by a fine of not
38 more than one hundred thousand dollars (\$100,000).

39 (4) Any person who maliciously uses against animals, crops,
40 or seed and seed stock, a weapon of mass destruction in a form

that may cause widespread damage to or substantial diminution in the value of stock animals or crops, including seeds used for crops or product of the crops, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 in the state prison for 4, 8, or 12 years and by a fine of not more than one hundred thousand dollars (\$100,000).

(c) Any person who uses a weapon of mass destruction in a form that may cause widespread and significant damage to public natural resources, including coastal waterways and beaches, public parkland, surface waters, ground water, and wildlife, shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 in the state prison for three, four, or six years.

(d) (1) Any person who uses recombinant technology or any other biological advance to create new pathogens or more virulent forms of existing pathogens for use in any crime described in subdivision (b) shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 in the state prison for 4, 8, or 12 years and by a fine of not more than two hundred fifty thousand dollars (\$250,000).

(2) Any person who uses recombinant technology or any other biological advance to create new pathogens or more virulent forms of existing pathogens for use in any crime described in subdivision (c) shall be punished by imprisonment pursuant to subdivision (h) of Section 1170 in the state prison for three, six, or nine years and by a fine of not more than two hundred fifty thousand dollars (\$250,000).

(e) Nothing in this section shall be construed to prevent punishment instead pursuant to any other provision of law that imposes a greater or more severe punishment.

SEC. 56. Section 12021.5 of the Penal Code, as amended by Section 503 of Chapter 15 of the Statutes of 2011, is amended to read:

12021.5. (a) Every person who carries a loaded or unloaded firearm on his or her person, or in a vehicle, during the commission or attempted commission of any street gang crimes described in subdivision (a) or (b) of Section 186.22, shall, upon conviction of the felony or attempted felony, be punished by an additional term of imprisonment pursuant to subdivision (h) of Section 1170 for one, two, or three years. The court shall select the sentence enhancement which, in the court's discretion, best serves the

1 interests of justice and shall state the reasons for its choice on the
2 record at the time of sentence, in accordance with the provisions
3 of subdivision (d) of Section 1170.1.

4 (b) Every person who carries a loaded or unloaded firearm
5 together with a detachable shotgun magazine, a detachable pistol
6 magazine, a detachable magazine, or a belt-feeding device on his
7 or her person, or in a vehicle, during the commission or attempted
8 commission of any street gang crimes described in subdivision (a)
9 or (b) of Section 186.22, shall, upon conviction of the felony or
10 attempted felony, be punished by an additional term of
11 imprisonment ~~pursuant to subdivision (h) of Section 1170 in the~~
12 *state prison* for two, three, or four years. The court shall select the
13 sentence enhancement which, in the court's discretion, best serves
14 the interests of justice and shall state the reasons for its choice on
15 the record at the time of sentence, in accordance with the provisions
16 of subdivision (d) of Section 1170.1.

17 (c) As used in this section, the following definitions shall apply:

18 (1) "Detachable magazine" means a device that is designed or
19 redesigned to do all of the following:

20 (A) To be attached to a rifle that is designed or redesigned to
21 fire ammunition.

22 (B) To be attached to, and detached from, a rifle that is designed
23 or redesigned to fire ammunition.

24 (C) To feed ammunition continuously and directly into the
25 loading mechanism of a rifle that is designed or redesigned to fire
26 ammunition.

27 (2) "Detachable pistol magazine" means a device that is
28 designed or redesigned to do all of the following:

29 (A) To be attached to a semiautomatic firearm that is not a rifle
30 or shotgun that is designed or redesigned to fire ammunition.

31 (B) To be attached to, and detached from, a firearm that is not
32 a rifle or shotgun that is designed or redesigned to fire ammunition.

33 (C) To feed ammunition continuously and directly into the
34 loading mechanism of a firearm that is not a rifle or a shotgun that
35 is designed or redesigned to fire ammunition.

36 (3) "Detachable shotgun magazine" means a device that is
37 designed or redesigned to do all of the following:

38 (A) To be attached to a firearm that is designed or redesigned
39 to fire a fixed shotgun shell through a smooth or rifled bore.

1 (B) To be attached to, and detached from, a firearm that is
2 designed or redesigned to fire a fixed shotgun shell through a
3 smooth bore.

4 (C) To feed fixed shotgun shells continuously and directly into
5 the loading mechanism of a firearm that is designed or redesigned
6 to fire a fixed shotgun shell.

7 (4) “Belt-feeding device” means a device that is designed or
8 redesigned to continuously feed ammunition into the loading
9 mechanism of a machinegun or a semiautomatic firearm.

10 (5) “Rifle” shall have the same meaning as specified in
11 paragraph (20) of subdivision (c) of Section 12020.

12 (6) “Shotgun” shall have the same meaning as specified in
13 paragraph (21) of subdivision (c) of Section 12020.

14 (d) This section shall remain in effect only until January 1, 2012,
15 and as of that date is repealed, unless a later enacted statute, that
16 is enacted before January 1, 2012, deletes or extends that date.

17 *SEC. 57. Section 12021.5 of the Penal Code, as amended by*
18 *Section 504 of Chapter 15 of the Statutes of 2011, is amended to*
19 *read:*

20 12021.5. (a) Every person who carries a loaded or unloaded
21 firearm on his or her person, or in a vehicle, during the commission
22 or attempted commission of any street gang crimes described in
23 subdivision (a) or (b) of Section 186.22, shall, upon conviction of
24 the felony or attempted felony, be punished by an additional term
25 of imprisonment pursuant to subdivision (h) of Section 1170 for
26 one, two, or three years in the court’s discretion. The court shall
27 impose the middle term unless there are circumstances in
28 aggravation or mitigation. The court shall state the reasons for its
29 enhancement choice on the record at the time of sentence.

30 (b) Every person who carries a loaded or unloaded firearm
31 together with a detachable shotgun magazine, a detachable pistol
32 magazine, a detachable magazine, or a belt-feeding device on his
33 or her person, or in a vehicle, during the commission or attempted
34 commission of any street gang crimes described in subdivision (a)
35 or (b) of Section 186.22, shall, upon conviction of the felony or
36 attempted felony, be punished by an additional term of
37 imprisonment ~~pursuant to subdivision (h) of Section 1170~~ *in the*
38 *state prison* for two, three, or four years in the court’s discretion.
39 The court shall impose the middle term unless there are
40 circumstances in aggravation or mitigation. The court shall state

1 the reasons for its enhancement choice on the record at the time
2 of sentence.

3 (c) As used in this section, the following definitions shall apply:

4 (1) “Detachable magazine” means a device that is designed or
5 redesigned to do all of the following:

6 (A) To be attached to a rifle that is designed or redesigned to
7 fire ammunition.

8 (B) To be attached to, and detached from, a rifle that is designed
9 or redesigned to fire ammunition.

10 (C) To feed ammunition continuously and directly into the
11 loading mechanism of a rifle that is designed or redesigned to fire
12 ammunition.

13 (2) “Detachable pistol magazine” means a device that is
14 designed or redesigned to do all of the following:

15 (A) To be attached to a semiautomatic firearm that is not a rifle
16 or shotgun that is designed or redesigned to fire ammunition.

17 (B) To be attached to, and detached from, a firearm that is not
18 a rifle or shotgun that is designed or redesigned to fire ammunition.

19 (C) To feed ammunition continuously and directly into the
20 loading mechanism of a firearm that is not a rifle or a shotgun that
21 is designed or redesigned to fire ammunition.

22 (3) “Detachable shotgun magazine” means a device that is
23 designed or redesigned to do all of the following:

24 (A) To be attached to a firearm that is designed or redesigned
25 to fire a fixed shotgun shell through a smooth or rifled bore.

26 (B) To be attached to, and detached from, a firearm that is
27 designed or redesigned to fire a fixed shotgun shell through a
28 smooth bore.

29 (C) To feed fixed shotgun shells continuously and directly into
30 the loading mechanism of a firearm that is designed or redesigned
31 to fire a fixed shotgun shell.

32 (4) “Belt-feeding device” means a device that is designed or
33 redesigned to continuously feed ammunition into the loading
34 mechanism of a machinegun or a semiautomatic firearm.

35 (5) “Rifle” shall have the same meaning as specified in
36 paragraph (20) of subdivision (c) of Section 12020.

37 (6) “Shotgun” shall have the same meaning as specified in
38 paragraph (21) of subdivision (c) of Section 12020.

39 (d) This section shall become operative on January 1, 2012.

1 SEC. 58. *Section 12022 of the Penal Code, as amended by*
2 *Section 506 of Chapter 15 of the Statutes of 2011, is amended to*
3 *read:*

4 12022. (a) (1) Except as provided in subdivisions (c) and (d),
5 any person who is armed with a firearm in the commission of a
6 felony or attempted felony shall be punished by an additional and
7 consecutive term of imprisonment pursuant to subdivision (h) of
8 Section 1170 for one year, unless the arming is an element of that
9 offense. This additional term shall apply to any person who is a
10 principal in the commission of a felony or attempted felony if one
11 or more of the principals is armed with a firearm, whether or not
12 the person is personally armed with a firearm.

13 (2) Except as provided in subdivision (c), and notwithstanding
14 subdivision (d), if the firearm is an assault weapon, as defined in
15 Section 30510 or Section 30515, or a machinegun, as defined in
16 Section 16880, or a .50 BMG rifle, as defined in Section 30530,
17 the additional and consecutive term described in this subdivision
18 shall be three years imprisonment pursuant to subdivision (h) of
19 Section 1170 whether or not the arming is an element of the offense
20 of which the person was convicted. The additional term provided
21 in this paragraph shall apply to any person who is a principal in
22 the commission of a felony or attempted felony if one or more of
23 the principals is armed with an assault weapon or machinegun, or
24 a .50 BMG rifle, whether or not the person is personally armed
25 with an assault weapon or machinegun, or a .50 BMG rifle.

26 (b) (1) Any person who personally uses a deadly or dangerous
27 weapon in the commission of a felony or attempted felony shall
28 be punished by an additional and consecutive term of imprisonment
29 pursuant to subdivision (h) of Section 1170 *in the state prison* for
30 one year, unless use of a deadly or dangerous weapon is an element
31 of that offense.

32 (2) If the person described in paragraph (1) has been convicted
33 of carjacking or attempted carjacking, the additional term shall be
34 pursuant to subdivision (h) of Section 1170 *in the state prison* for
35 one, two, or three years.

36 (3) When a person is found to have personally used a deadly or
37 dangerous weapon in the commission of a felony or attempted
38 felony as provided in this subdivision and the weapon is owned
39 by that person, the court shall order that the weapon be deemed a

1 nuisance and disposed of in the manner provided in Sections 18000
2 and 18005.

3 (c) Notwithstanding the enhancement set forth in subdivision
4 (a), any person who is personally armed with a firearm in the
5 commission of a violation or attempted violation of Section 11351,
6 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379,
7 11379.5, or 11379.6 of the Health and Safety Code, shall be
8 punished by an additional and consecutive term of imprisonment
9 pursuant to subdivision (h) of Section 1170 for three, four, or five
10 years.

11 (d) Notwithstanding the enhancement set forth in subdivision
12 (a), any person who is not personally armed with a firearm who,
13 knowing that another principal is personally armed with a firearm,
14 is a principal in the commission of an offense or attempted offense
15 specified in subdivision (c), shall be punished by an additional and
16 consecutive term of imprisonment pursuant to subdivision (h) of
17 Section 1170 for one, two, or three years.

18 (e) For purposes of imposing an enhancement under Section
19 1170.1, the enhancements under this section shall count as one,
20 single enhancement.

21 (f) Notwithstanding any other provision of law, the court may
22 strike the additional punishment for the enhancements provided
23 in subdivision (c) or (d) in an unusual case where the interests of
24 justice would best be served, if the court specifies on the record
25 and enters into the minutes the circumstances indicating that the
26 interests of justice would best be served by that disposition.

27 *SEC. 59. Section 12022.5 of the Penal Code, as amended by*
28 *Section 507 of Chapter 15 of the Statutes of 2011, is amended to*
29 *read:*

30 12022.5. (a) Except as provided in subdivision (b), any person
31 who personally uses a firearm in the commission of a felony or
32 attempted felony shall be punished by an additional and
33 consecutive term of imprisonment ~~pursuant to subdivision (h) of~~
34 ~~Section 1170 in the state prison~~ for 3, 4, or 10 years, unless use
35 of a firearm is an element of that offense.

36 (b) Notwithstanding subdivision (a), any person who personally
37 uses an assault weapon, as specified in Section 12276 or Section
38 12276.1, or a machinegun, as defined in Section 12200, in the
39 commission of a felony or attempted felony, shall be punished by
40 an additional and consecutive term of imprisonment ~~pursuant to~~

~~subdivision (h) of Section 1170 in the state prison for 5, 6, or 10 years.~~

(c) Notwithstanding Section 1385 or any other provisions of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(d) Notwithstanding the limitation in subdivision (a) relating to being an element of the offense, the additional term provided by this section shall be imposed for any violation of Section 245 if a firearm is used, or for murder if the killing is perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury or death.

(e) When a person is found to have personally used a firearm, an assault weapon, a machinegun, or a .50 BMG rifle, in the commission of a felony or attempted felony as provided in this section and the firearm, assault weapon, machinegun, or a .50 BMG rifle, is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(f) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

SEC. 60. *Section 12022.5 of the Penal Code, as amended by Section 508 of Chapter 15 of the Statutes of 2011, is amended to read:*

12022.5. (a) Except as provided in subdivision (b), any person who personally uses a firearm in the commission of a felony or attempted felony shall be punished by an additional and consecutive term of imprisonment ~~pursuant to subdivision (h) of Section 1170 in the state prison~~ for 3, 4, or 10 years, unless use of a firearm is an element of that offense.

(b) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 30510 or Section 30515, or a machinegun, as defined in Section 16880, in the commission of a felony or attempted felony, shall be punished by an additional and consecutive term of imprisonment ~~pursuant to subdivision (h) of Section 1170 in the state prison~~ for 5, 6, or 10 years.

(c) Notwithstanding Section 1385 or any other provisions of law, the court shall not strike an allegation under this section or a finding bringing a person within the provisions of this section.

(d) Notwithstanding the limitation in subdivision (a) relating to being an element of the offense, the additional term provided by this section shall be imposed for any violation of Section 245 if a firearm is used, or for murder if the killing is perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury or death.

(e) When a person is found to have personally used a firearm, an assault weapon, a machinegun, or a .50 BMG rifle, in the commission of a felony or attempted felony as provided in this section and the firearm, assault weapon, machinegun, or a .50 BMG rifle, is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Sections 18000 and 18005.

(f) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

SEC. 61. Section 12022.9 of the Penal Code, as amended by Section 509 of Chapter 15 of the Statutes of 2011, is amended to read:

12022.9. Any person who, during the commission of a felony or attempted felony, knows or reasonably should know that the victim is pregnant, and who, with intent to inflict injury, and without the consent of the woman, personally inflicts injury upon a pregnant woman that results in the termination of the pregnancy shall be punished by an additional and consecutive term of imprisonment pursuant to subdivision (h) of Section 1170 in the state prison for five years. The additional term provided in this subdivision shall not be imposed unless the fact of that injury is charged in the accusatory pleading and admitted or found to be true by the trier of fact.

Nothing in this section shall be construed as affecting the applicability of subdivision (a) of Section 187.

SEC. 62. Section 12022.9 of the Penal Code, as amended by Section 510 of Chapter 15 of the Statutes of 2011, is amended to read:

1 12022.9. Any person who, during the commission of a felony
2 or attempted felony, knows or reasonably should know that the
3 victim is pregnant, and who, with intent to inflict injury, and
4 without the consent of the woman, personally inflicts injury upon
5 a pregnant woman that results in the termination of the pregnancy
6 shall be punished by an additional and consecutive term of
7 imprisonment ~~pursuant to subdivision (h) of Section 1170 in the~~
8 *state prison* for five years. The additional term provided in this
9 subdivision shall not be imposed unless the fact of that injury is
10 charged in the accusatory pleading and admitted or found to be
11 true by the trier of fact.

12 Nothing in this section shall be construed as affecting the
13 applicability of subdivision (a) of Section 187.

14 *SEC. 63. Section 12025 of the Penal Code, as amended by*
15 *Section 511 of Chapter 15 of the Statutes of 2011, is amended to*
16 *read:*

17 12025. (a) A person is guilty of carrying a concealed firearm
18 when he or she does any of the following:

19 (1) Carries concealed within any vehicle which is under his or
20 her control or direction any pistol, revolver, or other firearm
21 capable of being concealed upon the person.

22 (2) Carries concealed upon his or her person any pistol, revolver,
23 or other firearm capable of being concealed upon the person.

24 (3) Causes to be carried concealed within any vehicle in which
25 he or she is an occupant any pistol, revolver, or other firearm
26 capable of being concealed upon the person.

27 (b) Carrying a concealed firearm in violation of this section is
28 punishable, as follows:

29 (1) Where the person previously has been convicted of any
30 felony, or of any crime made punishable by this chapter, as a felony
31 punishable by imprisonment pursuant to subdivision (h) of Section
32 1170.

33 (2) Where the firearm is stolen and the person knew or had
34 reasonable cause to believe that it was stolen, as a felony
35 punishable by imprisonment pursuant to subdivision (h) of Section
36 1170.

37 (3) Where the person is an active participant in a criminal street
38 gang, as defined in subdivision (a) of Section 186.22, under the
39 Street Terrorism Enforcement and Prevention Act (Chapter 11
40 (commencing with Section 186.20) of Title 7 of Part 1), as a felony

1 ~~punishable by imprisonment pursuant to subdivision (h) of Section~~
2 ~~1170.~~

3 (4) Where the person is not in lawful possession of the firearm,
4 as defined in this section, or the person is within a class of persons
5 prohibited from possessing or acquiring a firearm pursuant to
6 Section 12021 or 12021.1 of this code or Section 8100 or 8103 of
7 the Welfare and Institutions Code, as a felony punishable by
8 imprisonment pursuant to subdivision (h) of Section 1170.

9 (5) Where the person has been convicted of a crime against a
10 person or property, or of a narcotics or dangerous drug violation,
11 by imprisonment pursuant to subdivision (h) of Section 1170, or
12 by imprisonment in a county jail not to exceed one year, by a fine
13 not to exceed one thousand dollars (\$1,000), or by both that
14 imprisonment and fine.

15 (6) By imprisonment pursuant to subdivision (h) of Section
16 1170, or by imprisonment in a county jail not to exceed one year,
17 by a fine not to exceed one thousand dollars (\$1,000), or by both
18 that fine and imprisonment if both of the following conditions are
19 met:

20 (A) Both the pistol, revolver, or other firearm capable of being
21 concealed upon the person and the unexpended ammunition capable
22 of being discharged from that firearm are either in the immediate
23 possession of the person or readily accessible to that person, or
24 the pistol, revolver, or other firearm capable of being concealed
25 upon the person is loaded as defined in subdivision (g) of Section
26 12031.

27 (B) The person is not listed with the Department of Justice
28 pursuant to paragraph (1) of subdivision (c) of Section 11106, as
29 the registered owner of that pistol, revolver, or other firearm
30 capable of being concealed upon the person.

31 (7) In all cases other than those specified in paragraphs (1) to
32 (6), inclusive, by imprisonment in a county jail not to exceed one
33 year, by a fine not to exceed one thousand dollars (\$1,000), or by
34 both that imprisonment and fine.

35 (c) A peace officer may arrest a person for a violation of
36 paragraph (6) of subdivision (b) if the peace officer has probable
37 cause to believe that the person is not listed with the Department
38 of Justice pursuant to paragraph (1) of subdivision (c) of Section
39 11106 as the registered owner of the pistol, revolver, or other
40 firearm capable of being concealed upon the person, and one or

1 more of the conditions in subparagraph (A) of paragraph (6) of
2 subdivision (b) is met.

3 (d) (1) Every person convicted under this section who
4 previously has been convicted of a misdemeanor offense
5 enumerated in Section 12001.6 shall be punished by imprisonment
6 in a county jail for at least three months and not exceeding six
7 months, or, if granted probation, or if the execution or imposition
8 of sentence is suspended, it shall be a condition thereof that he or
9 she be imprisoned in a county jail for at least three months.

10 (2) Every person convicted under this section who has
11 previously been convicted of any felony, or of any crime made
12 punishable by this chapter, if probation is granted, or if the
13 execution or imposition of sentence is suspended, it shall be a
14 condition thereof that he or she be imprisoned in a county jail for
15 not less than three months.

16 (e) The court shall apply the three-month minimum sentence
17 as specified in subdivision (d), except in unusual cases where the
18 interests of justice would best be served by granting probation or
19 suspending the imposition or execution of sentence without the
20 minimum imprisonment required in subdivision (d) or by granting
21 probation or suspending the imposition or execution of sentence
22 with conditions other than those set forth in subdivision (d), in
23 which case, the court shall specify on the record and shall enter
24 on the minutes the circumstances indicating that the interests of
25 justice would best be served by that disposition.

26 (f) Firearms carried openly in belt holsters are not concealed
27 within the meaning of this section.

28 (g) For purposes of this section, “lawful possession of the
29 firearm” means that the person who has possession or custody of
30 the firearm either lawfully owns the firearm or has the permission
31 of the lawful owner or a person who otherwise has apparent
32 authority to possess or have custody of the firearm. A person who
33 takes a firearm without the permission of the lawful owner or
34 without the permission of a person who has lawful custody of the
35 firearm does not have lawful possession of the firearm.

36 (h) (1) The district attorney of each county shall submit annually
37 a report on or before June 30, to the Attorney General consisting
38 of profiles by race, age, gender, and ethnicity of any person charged
39 with a felony or a misdemeanor under this section and any other
40 offense charged in the same complaint, indictment, or information.

1 (2) The Attorney General shall submit annually, a report on or
2 before December 31, to the Legislature compiling all of the reports
3 submitted pursuant to paragraph (1).

4 (3) This subdivision shall remain operative until January 1,
5 2005, and as of that date shall be repealed.

6 *SEC. 64. Section 23109 of the Vehicle Code, as amended by*
7 *Section 611 of Chapter 15 of the Statutes of 2011, is amended to*
8 *read:*

9 23109. (a) A person shall not engage in a motor vehicle speed
10 contest on a highway. As used in this section, a motor vehicle
11 speed contest includes a motor vehicle race against another vehicle,
12 a clock, or other timing device. For purposes of this section, an
13 event in which the time to cover a prescribed route of more than
14 20 miles is measured, but where the vehicle does not exceed the
15 speed limits, is not a speed contest.

16 (b) A person shall not aid or abet in any motor vehicle speed
17 contest on any highway.

18 (c) A person shall not engage in a motor vehicle exhibition of
19 speed on a highway, and a person shall not aid or abet in a motor
20 vehicle exhibition of speed on any highway.

21 (d) A person shall not, for the purpose of facilitating or aiding
22 or as an incident to any motor vehicle speed contest or exhibition
23 upon a highway, in any manner obstruct or place a barricade or
24 obstruction or assist or participate in placing a barricade or
25 obstruction upon any highway.

26 (e) (1) A person convicted of a violation of subdivision (a) shall
27 be punished by imprisonment in a county jail for not less than 24
28 hours nor more than 90 days or by a fine of not less than three
29 hundred fifty-five dollars (\$355) nor more than one thousand
30 dollars (\$1,000), or by both that fine and imprisonment. That
31 person shall also be required to perform 40 hours of community
32 service. The court may order the privilege to operate a motor
33 vehicle suspended for 90 days to six months, as provided in
34 paragraph (8) of subdivision (a) of Section 13352. The person's
35 privilege to operate a motor vehicle may be restricted for 90 days
36 to six months to necessary travel to and from that person's place
37 of employment and, if driving a motor vehicle is necessary to
38 perform the duties of the person's employment, restricted to driving
39 in that person's scope of employment. This subdivision does not

1 interfere with the court's power to grant probation in a suitable
2 case.

3 (2) If a person is convicted of a violation of subdivision (a) and
4 that violation proximately causes bodily injury to a person other
5 than the driver, the person convicted shall be punished by
6 imprisonment in a county jail for not less than 30 days nor more
7 than six months or by a fine of not less than five hundred dollars
8 (\$500) nor more than one thousand dollars (\$1,000), or by both
9 that fine and imprisonment.

10 (f) (1) If a person is convicted of a violation of subdivision (a)
11 for an offense that occurred within five years of the date of a prior
12 offense that resulted in a conviction of a violation of subdivision
13 (a), that person shall be punished by imprisonment in a county jail
14 for not less than four days nor more than six months, and by a fine
15 of not less than five hundred dollars (\$500) nor more than one
16 thousand dollars (\$1,000).

17 (2) If the perpetration of the most recent offense within the
18 five-year period described in paragraph (1) proximately causes
19 bodily injury to a person other than the driver, a person convicted
20 of that second violation shall be imprisoned in a county jail for
21 not less than 30 days nor more than six months and by a fine of
22 not less than five hundred dollars (\$500) nor more than one
23 thousand dollars (\$1,000).

24 (3) If the perpetration of the most recent offense within the
25 five-year period described in paragraph (1) proximately causes
26 serious bodily injury, as defined in paragraph (4) of subdivision
27 (f) of Section 243 of the Penal Code, to a person other than the
28 driver, a person convicted of that second violation shall be
29 imprisoned ~~pursuant to subdivision (h) of Section 1170 of the Penal~~
30 ~~Code~~ *in the state prison*, or in a county jail for not less than 30
31 days nor more than one year, and by a fine of not less than five
32 hundred dollars (\$500) nor more than one thousand dollars
33 (\$1,000).

34 (4) The court shall order the privilege to operate a motor vehicle
35 of a person convicted under paragraph (1), (2), or (3) suspended
36 for a period of six months, as provided in paragraph (9) of
37 subdivision (a) of Section 13352. In lieu of the suspension, the
38 person's privilege to operate a motor vehicle may be restricted for
39 six months to necessary travel to and from that person's place of
40 employment and, if driving a motor vehicle is necessary to perform

1 the duties of the person's employment, restricted to driving in that
2 person's scope of employment.

3 (5) This subdivision does not interfere with the court's power
4 to grant probation in a suitable case.

5 (g) If the court grants probation to a person subject to
6 punishment under subdivision (f), in addition to subdivision (f)
7 and any other terms and conditions imposed by the court, which
8 may include a fine, the court shall impose as a condition of
9 probation that the person be confined in a county jail for not less
10 than 48 hours nor more than six months. The court shall order the
11 person's privilege to operate a motor vehicle to be suspended for
12 a period of six months, as provided in paragraph (9) of subdivision
13 (a) of Section 13352 or restricted pursuant to subdivision (f).

14 (h) If a person is convicted of a violation of subdivision (a) and
15 the vehicle used in the violation is registered to that person, the
16 vehicle may be impounded at the registered owner's expense for
17 not less than one day nor more than 30 days.

18 (i) A person who violates subdivision (b), (c), or (d) shall upon
19 conviction of that violation be punished by imprisonment in a
20 county jail for not more than 90 days, by a fine of not more than
21 five hundred dollars (\$500), or by both that fine and imprisonment.

22 (j) If a person's privilege to operate a motor vehicle is restricted
23 by a court pursuant to this section, the court shall clearly mark the
24 restriction and the dates of the restriction on that person's driver's
25 license and promptly notify the Department of Motor Vehicles of
26 the terms of the restriction in a manner prescribed by the
27 department. The Department of Motor Vehicles shall place that
28 restriction in the person's records in the Department of Motor
29 Vehicles and enter the restriction on a license subsequently issued
30 by the Department of Motor Vehicles to that person during the
31 period of the restriction.

32 (k) The court may order that a person convicted under this
33 section, who is to be punished by imprisonment in a county jail,
34 be imprisoned on days other than days of regular employment of
35 the person, as determined by the court.

36 (l) This section shall be known and may be cited as the Louis
37 Friend Memorial Act.

38 *SEC. 65. Section 23110 of the Vehicle Code, as amended by*
39 *Section 613 of Chapter 15 of the Statutes of 2011, is amended to*
40 *read:*

1 23110. (a) Any person who throws any substance at a vehicle
2 or any occupant thereof on a highway is guilty of a misdemeanor.

3 (b) Any person who with intent to do great bodily injury
4 maliciously and willfully throws or projects any rock, brick, bottle,
5 metal or other missile, or projects any other substance capable of
6 doing serious bodily harm at such vehicle or occupant thereof is
7 guilty of a felony and upon conviction shall be punished by
8 imprisonment pursuant to subdivision (h) of Section 1170 of the
9 Penal Code in the state prison.

10 SEC. 66. *Section 1710.5 of the Welfare and Institutions Code*
11 *is repealed.*

12 ~~1710.5. Notwithstanding any other law, on and after July 1,~~
13 ~~2011, a county may enter into a memorandum of understanding~~
14 ~~with the state to provide for the admission of minors adjudicated~~
15 ~~for an offense listed under subdivision (b) of Section 707 to the~~
16 ~~Division of Juvenile Justice.~~

17 SEC. 67. *Section 1766.01 of the Welfare and Institutions Code*
18 *is amended to read:*

19 1766.01. (a) This section shall become operative on the 90th
20 day after the enactment of the act adding this section.

21 (b) Subject to Sections 733 and 1767.36, and subdivision (c) of
22 this section, if a person has been committed to the Department of
23 Corrections and Rehabilitation, Division of Juvenile Facilities, the
24 Juvenile Parole Board, according to standardized review and appeal
25 procedures established by the board in policy and regulation and
26 subject to the powers and duties enumerated in subdivision (b) of
27 Section 1719.5, may do any of the following:

28 (1) Set a date on which the ward shall be discharged from the
29 jurisdiction of the Division of Juvenile Facilities and permitted his
30 or her liberty under supervision of probation and subject to the
31 jurisdiction of the juvenile committing court pursuant to subdivision
32 (c).

33 (2) Order his or her confinement under conditions the board
34 believes best designed for the protection of the public pursuant to
35 the purposes set forth in Section 1700, except that a person
36 committed to the division pursuant to Section 731 or 1731.5 may
37 not be held in physical confinement for a total period of time in
38 excess of the maximum periods of time set forth in Section 731.

1 (3) Discharge him or her from any formal supervision when the
2 board is satisfied that discharge is consistent with the protection
3 of the public.

4 (c) The following provisions shall apply to any ward eligible
5 for discharge from his or her commitment to the custody of the
6 Department of Corrections and Rehabilitation, Division of Juvenile
7 Facilities. Any order entered by the court pursuant to this
8 subdivision shall be consistent with evidence-based practices and
9 the interest of public safety.

10 (1) The county of commitment shall supervise the reentry of
11 any ward still subject to the court's jurisdiction and discharged
12 from the jurisdiction of the Division of Juvenile Facilities. The
13 conditions of the ward's supervision shall be established by the
14 court pursuant to the provisions of this section.

15 (2) Not less than 60 days prior to the scheduled discharge
16 consideration hearing of a ward described in this subdivision, the
17 division shall provide to the probation department and the court
18 of the committing county, and the ward's counsel, if known, the
19 most recent written review prepared pursuant to Section 1720,
20 along with notice of the discharge consideration hearing date.

21 (3) (A) Not less than 30 days prior to the scheduled discharge
22 consideration hearing, the division shall notify the ward of the date
23 and location of the discharge consideration hearing. A ward shall
24 have the right to contact his or her parent or guardian, if he or she
25 can reasonably be located, to inform the parent or guardian of the
26 date and location of the discharge consideration hearing. The
27 division shall also allow the ward to inform other persons who are
28 identified by the ward, if they can reasonably be located, and who
29 are considered by the division as likely to contribute to a ward's
30 preparation for the discharge consideration hearing or the ward's
31 postrelease success.

32 (B) This paragraph shall not apply if either of the following
33 conditions is met:

34 (i) A minor chooses not to contact his or her parents, guardians,
35 or other persons and the director of the division facility determines
36 it would be in the best interest of the minor not to contact the
37 parents, guardians, or other persons.

38 (ii) A person 18 years of age or older does not consent to the
39 contact.

1 (C) Upon intake of a ward committed to a division facility, and
2 again upon attaining 18 years of age while serving his or her
3 commitment in the custody of the division, an appropriate staff
4 person shall explain the provisions of subparagraphs (A) and (B),
5 using language clearly understandable to the ward.

6 (D) Nothing in this paragraph shall be construed to limit the
7 right of a ward to an attorney under any other law.

8 (4) Not less than 30 days prior to the scheduled discharge
9 consideration hearing of a ward described in this subdivision, the
10 probation department of the committing county may provide the
11 division with its written plan for the reentry supervision of the
12 ward. At the discharge consideration hearing, the Juvenile Parole
13 Board shall, in determining whether the ward is to be released,
14 consider a reentry supervision plan submitted by the county.

15 (5) If the Juvenile Parole Board determines that a ward is ready
16 for discharge to county supervision pursuant to subdivision (b),
17 the board shall set a date for discharge from the jurisdiction of the
18 Division of Juvenile Facilities no less than 14 days after the date
19 of that determination. The board shall also record any postrelease
20 recommendations for the ward. These recommendations will be
21 sent to the committing court responsible for setting the ward's
22 conditions of supervision no later than seven days from the date
23 of that determination.

24 (6) No more than four days but no less than one day prior to the
25 scheduled date of the reentry disposition hearing before the
26 committing court, the Division of Juvenile Facilities shall transport
27 and deliver the ward to the custody of the probation department
28 of the committing county. On or prior to a ward's date of discharge
29 from the Division of Juvenile Facilities, the committing court shall
30 convene a reentry disposition hearing for the ward. The purpose
31 of the hearing shall be for the court to identify those conditions of
32 supervision that are appropriate under all the circumstances of the
33 case and consistent with evidence-based practices. The court shall,
34 to the extent it deems appropriate, incorporate postrelease
35 recommendations made by the board as well as any reentry plan
36 submitted by the county probation department and reviewed by
37 the board into its disposition order. At the hearing the ward shall
38 be fully informed of the terms and conditions of any order entered
39 by the court, including the consequences for any violation thereof.
40 The procedure of the reentry disposition hearing shall otherwise

1 be consistent with the rules, rights, and procedures applicable to
2 delinquency disposition hearings as described in Article 17
3 (commencing with Section 675) of Chapter 2 of Part 1 of Division
4 2.

5 (7) The Department of Corrections and Rehabilitation shall have
6 no further jurisdiction over a ward who is discharged by the board.

7 (d) Within 60 days of intake, the Division of Juvenile Facilities
8 shall provide the court and the probation department with a
9 treatment plan for the ward.

10 (e) Commencing July 1, 2011, and annually thereafter, for the
11 preceding fiscal year, the department shall collect and make
12 available to the public the following information:

13 (1) The total number of ward case reviews conducted by the
14 division and the board, categorized by guideline category.

15 (2) The number of discharge consideration dates for each
16 category set at guideline, above guideline, and below guideline.

17 (3) The number of ward case reviews resulting in a change to
18 a discharge consideration date, including the category assigned to
19 the ward and the specific reason for the change.

20 (4) The percentage of wards who have had a discharge
21 consideration date changed to a later date, the percentage of wards
22 who have had a discharge consideration date changed to an earlier
23 date, and the average annual time added or subtracted per case.

24 (5) The number and percentage of wards who, while confined
25 or on parole, are charged with a new misdemeanor or felony
26 criminal offense.

27 (6) Any additional data or information identified by the
28 department as relevant.

29 (f) As used in subdivision (e), the term “ward case review”
30 means any review of a ward that changes, maintains, or appreciably
31 affects the programs, treatment, or placement of a ward.

32 (g) This section applies only to a ward who is discharged from
33 state jurisdiction to the jurisdiction of the committing court on or
34 after the operative date of this section.

35 (h) This section shall become inoperative on July 1, 2014, and,
36 as of January 1, 2015, is repealed, unless a later enacted statute,
37 that becomes operative on or before January 1, 2015, deletes or
38 extends the dates on which it becomes inoperative and is repealed.

39 *SEC. 68. Section 636 of Chapter 15 of the Statutes of 2011 is*
40 *amended to read:*

1 SEC. 636. This act will become operative no earlier than ~~July~~
2 *October* 1, 2011, and only upon creation of a community
3 corrections grant program to assist in implementing this act and
4 upon an appropriation to fund the grant program.

5 SEC. 69. (a) *Except as provided in subdivision (b), this act*
6 *shall become operative no earlier than October 1, 2011, and only*
7 *if Chapter 15 of the Statutes of 2011 becomes operative.*

8 (b) *On or before August 1, 2011, county agencies designated*
9 *to supervise inmates to be released to postrelease supervision shall*
10 *notify the Department of Corrections and Rehabilitation that the*
11 *county agencies have been designated as the local entity*
12 *responsible for providing that supervision. The requirements of*
13 *this subdivision shall take effect immediately.*

14 SEC. 70. *In addition to the amounts appropriated in the Budget*
15 *Act of 2011, an appropriation of twenty seven million dollars*
16 *(\$27,000,000) is provided to the Department of Corrections and*
17 *Rehabilitation for the purpose of state operations in the 2011–12*
18 *fiscal year, payable from the General Fund.*

19 SEC. 71. *Section 25.5 of this bill incorporates amendments to*
20 *Section 830.5 of the Penal Code proposed by both this bill and AB*
21 *116. It shall only become operative if (1) both bills are enacted*
22 *and become effective on or before January 1, 2012, (2) each bill*
23 *amends Section 830.5 of the Penal Code, and (3) this bill is enacted*
24 *after AB 116, in which case Section 25 of this bill shall not become*
25 *operative.*

26 SEC. 72. *This act is a bill providing for appropriations related*
27 *to the Budget Bill within the meaning of subdivision (e) of Section*
28 *12 of Article IV of the California Constitution, has been identified*
29 *as related to the budget in the Budget Bill, and shall take effect*
30 *immediately.*

31 ~~SECTION 1. It is the intent of the Legislature to enact statutory~~
32 ~~changes relating to the Budget Act of 2011.~~